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

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

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CHAPTER \_\_\_\_\_

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; prohibiting a person from tampering, attempting  
5 to tamper, or threatening to tamper with a public water system; providing  
6 certain penalties; establishing that severely injuring or killing a person in the  
7 course of committing certain environmental violations is a crime subject to  
8 certain penalties; providing that attempts to commit certain crimes are subject  
9 to the same penalty as the commitment that applies for commission of the crime;  
10 requiring a person to knowingly violate certain provisions of law in order to be  
11 subject to certain penalties; defining certain terms; defining a certain term; and  
12 generally relating to violations and enforcement of environmental laws.

13 BY adding to  
14 Article - Environment  
15 Section ~~1-401(n) and (o)~~ 9-401(k)  
16 Annotated Code of Maryland  
17 (1996 Replacement Volume and 1997 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article - Environment  
20 Section ~~2-609.1, 4-417, 5-911, 7-265, 9-413, and 16-501~~  
21 Section 5-911, 9-343, 9-413, and 16-501  
22 Annotated Code of Maryland  
23 (1996 Replacement Volume and 1997 Supplement)

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

3 **Article - Environment**

4 ~~1-101.~~

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

7 ~~(2) "ORGANIZATION" INCLUDES A CORPORATION, COMPANY,  
8 ASSOCIATION, FIRM, PARTNERSHIP, JOINT STOCK COMPANY, FOUNDATION,  
9 INSTITUTION, TRUST, SOCIETY, UNION, OR ANY OTHER ASSOCIATION OF PERSONS.~~

10 ~~(O) "SERIOUS BODILY INJURY" MEANS BODILY INJURY WHICH INVOLVES A  
11 SUBSTANTIAL RISK OF DEATH, UNCONSCIOUSNESS, EXTREME PHYSICAL PAIN,  
12 PROTRACTED AND OBVIOUS DISFIGUREMENT, OR PROTRACTED LOSS OR  
13 IMPAIRMENT OF THE FUNCTION OF A BODILY MEMBER, ORGAN, OR MENTAL  
14 FACULTY.~~

15 ~~2-609.1.~~

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

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

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

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

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

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

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

34 ~~(3) Each day on which violations occur is a separate violation under this  
35 subsection.~~

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

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

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

10          (2)     ~~Knowingly falsifies, tampers with, or renders inaccurate any~~  
11 ~~monitoring device or methods required to be maintained under this title or any rule,~~  
12 ~~regulation, order, approved plan for compliance, approval, or permit adopted or issued~~  
13 ~~under this title.~~

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

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

21          (2)     ~~IF THE PERSON IS AN ORGANIZATION, A FINE NOT EXCEEDING~~  
22 ~~\$2,000,000.~~

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

26 ~~4-417.~~

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

32          (b)     Any person who **KNOWINGLY** violates any of the provisions of, or who fails  
33 to perform any duty imposed by, this subtitle, or any regulation or order issued under  
34 it, or the provisions of any permit of the Department made pursuant to this subtitle is  
35 guilty of a [misdemeanor] **FELONY**, and upon conviction, is subject to a fine not **LESS**  
36 **THAN \$5,000 AND NOT** exceeding \$50,000 **PER DAY OF VIOLATION** or by imprisonment  
37 not exceeding [one year] **3 YEARS**, or both, and, in addition, may be enjoined from  
38 continuing the violation. If the conviction is for a violation committed after a first  
39 conviction of the person under this subsection, punishment shall be by a fine of not  
40 more than [**\$50,000**] **\$100,000** per day of violation or by imprisonment not exceeding

1 ~~[two] 6 years or both, and in addition, the person may be enjoined from continuing~~  
2 ~~the violation. Each day upon which a violation occurs constitutes a separate offense.~~

3 ~~(e) (1) Any person who knowingly makes any false statement,~~  
4 ~~representation, or certification in any application, record, report, plan, or other~~  
5 ~~document filed or required to be maintained under this title, or by any permit, rule,~~  
6 ~~regulation or order issued under this title, or who falsifies, tampers with, or~~  
7 ~~knowingly renders inaccurate any monitoring device or method required to be~~  
8 ~~maintained under this title or by any permit, rule, regulation, or order issued under~~  
9 ~~this title, upon conviction, is subject to a fine not exceeding \$10,000 PER DAY OF~~  
10 ~~VIOLATION, or by imprisonment not exceeding [six months]2 YEARS or both.~~

11 ~~(2) A PERSON WHO COMMITS A CRIMINAL VIOLATION IDENTIFIED IN~~  
12 ~~THIS SECTION THAT IS THE DIRECT OR PROXIMATE CAUSE OF SERIOUS BODILY~~  
13 ~~INJURY TO OR DEATH OF ANY OTHER PERSON, INCLUDING A FEDERAL, STATE, OR~~  
14 ~~LOCAL EMPLOYEE PERFORMING OFFICIAL DUTIES AS A RESULT OF THE VIOLATION,~~  
15 ~~ON CONVICTION SHALL BE SUBJECT TO:~~

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

18 ~~(II) IF THE PERSON IS AN ORGANIZATION, A FINE NOT EXCEEDING~~  
19 ~~\$2,000,000.~~

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

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

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

4 5-911.

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

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

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

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

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

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

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

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

29 (ii) For a second or subsequent offense, a fine not exceeding  
30 ~~[\$25,000] \$100,000 PER DAY OF VIOLATION OR IMPRISONMENT NOT EXCEEDING 6~~  
31 ~~YEARS OR BOTH.~~

32 (2) The court may order the person to restore the area unlawfully  
33 disturbed.

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

1           (1)     ~~IF THE PERSON IS NOT AN ORGANIZATION, A FINE NOT EXCEEDING~~  
2 ~~\$500,000 OR IMPRISONMENT NOT EXCEEDING 20 YEARS OR BOTH; AND~~

3           (2)     ~~IF THE PERSON IS AN ORGANIZATION, A FINE NOT EXCEEDING~~  
4 ~~\$2,000,000.~~

5     ~~(G)~~    (F)     A PERSON WHO ATTEMPTS TO COMMIT THE CONDUCT THAT  
6 CONSTITUTES AN OFFENSE UNDER THIS SECTION SHALL BE SUBJECT TO THE SAME  
7 PENALTIES AS THOSE PRESCRIBED FOR THE OFFENSE.

8 ~~7-265.~~

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

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

15           (2)     ~~Transporting for treatment, storage, or disposal a controlled~~  
16 ~~hazardous substance to any place other than a controlled hazardous substance facility~~  
17 ~~for which a current facility permit is in effect;~~

18           (3)     ~~Falsifying any information required by the Department under this~~  
19 ~~subtitle or any rule, regulation, order, hauler certificate, vehicle certificate, or facility~~  
20 ~~permit issued under this subtitle; or~~

21           (4)     ~~Authorizing, directing, or permitting any offense listed in this~~  
22 ~~section.~~

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

27           (1)     ~~§ 7-209 of this subtitle;~~

28           (2)     ~~§ 7-249 of this subtitle; or~~

29           (3)     ~~§ 7-252 of this subtitle.~~

30     (c)     ~~Each day on which a violation occurs constitutes a separate offense under~~  
31 ~~this section.~~

32     (d)     (1)     Any person who knowingly transports, treats, stores, exports, or  
33 otherwise disposes of a controlled hazardous substance in a manner that would  
34 constitute a violation under subsection (a) of this section and who knows at that time  
35 the violation places another person in imminent danger of death or serious bodily

1 injury is guilty of a felony and on conviction is subject to a fine not exceeding \$250,000  
2 or imprisonment not exceeding 15 years or both.

3 (2) For the purposes of this subsection, in determining whether a  
4 person's state of mind is knowing and whether a person knew that the violation or  
5 conduct placed another person in imminent danger of death or serious bodily injury,  
6 the criteria provided under § 3008(f) of the Resource Conservation and Recovery Act  
7 (42 U.S.C. § 6928(f)) shall apply.

8 (E) ~~A PERSON WHO COMMITS A CRIMINAL VIOLATION IDENTIFIED IN THIS~~  
9 ~~SECTION THAT IS THE DIRECT OR PROXIMATE CAUSE OF SERIOUS BODILY INJURY TO~~  
10 ~~OR DEATH OF ANY OTHER PERSON, INCLUDING A FEDERAL, STATE, OR LOCAL~~  
11 ~~EMPLOYEE PERFORMING OFFICIAL DUTIES AS A RESULT OF THE VIOLATION, ON~~  
12 ~~CONVICTION SHALL BE SUBJECT TO:~~

13 (1) ~~IF THE PERSON IS NOT AN ORGANIZATION, A FINE NOT EXCEEDING~~  
14 ~~\$500,000 OR IMPRISONMENT NOT EXCEEDING 20 YEARS OR BOTH; AND~~

15 (2) ~~IF THE PERSON IS AN ORGANIZATION, A FINE NOT EXCEEDING~~  
16 ~~\$2,000,000.~~

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

20 9-343.

21 (a) (1) A person who KNOWINGLY violates any provision of or fails to  
22 perform any duty imposed by this subtitle, or who KNOWINGLY violates any provision  
23 of or fails to perform any duty imposed by a rule, regulation, order, or permit adopted  
24 or issued under this subtitle, is guilty of a [misdemeanor] FELONY and on conviction  
25 is subject to:

26 (i) For a first offense, a fine not exceeding [25,000] \$50,000 or  
27 imprisonment not exceeding [1 year] 3 YEARS or both; or

28 (ii) If the conviction is for a violation committed after a first  
29 conviction of the person under this subsection, a fine not exceeding [50,000] \$100,000  
30 for each day of violation or imprisonment not exceeding [2] 6 years or both.

31 (2) In addition to any criminal penalties imposed on a person convicted  
32 under this subsection, the person may be enjoined from continuing the violation.

33 (3) Each day on which a violation occurs is a separate violation under  
34 this subsection.

35 (b) A person is guilty of a [misdemeanor] FELONY and on conviction is subject  
36 to a fine not exceeding \$10,000 or imprisonment not exceeding [6 months] 2 YEARS or  
37 both FOR A FIRST OFFENSE AND A FINE OF NOT MORE THAN \$20,000 OR

1 IMPRISONMENT NOT EXCEEDING 4 YEARS OR BOTH FOR A VIOLATION COMMITTED  
2 AFTER THE FIRST CONVICTION, if the person:

3 (1) Knowingly makes any false statement, representation, or  
4 certification in any application, record, report, plan, or other document filed or  
5 required to be maintained under this subtitle or any rule, regulation, order, or permit  
6 adopted or issued under this subtitle; or

7 (2) Falsifies, tampers with, or knowingly renders inaccurate any  
8 monitoring device or method required to be maintained under this subtitle or any  
9 rule, regulation, order, or permit adopted or issued under this subtitle.

10 (C) FOR PURPOSES OF THIS SECTION, A SINGLE OPERATIONAL UPSET THAT  
11 LEADS TO SIMULTANEOUS VIOLATIONS OF MORE THAN ONE POLLUTANT  
12 PARAMETER SHALL BE TREATED AS A SINGLE VIOLATION.

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

16 9-401.

17 (K) "TAMPER" MEANS TO:

18 (1) INTRODUCE A CONTAMINANT INTO A PUBLIC WATER SYSTEM WITH  
19 THE INTENTION OF HARMING A PERSON; OR

20 (2) OTHERWISE INTERFERE WITH THE OPERATION OF A PUBLIC WATER  
21 SYSTEM WITH THE INTENTION OF HARMING A PERSON.

22 9-413.

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

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

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

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

34 (c) In an action brought in the appropriate court to enforce the order, a person  
35 who willfully violates or fails or refuses to comply with any order issued by the

1 Secretary under § 9-405 of this subtitle may be fined not more than [\$5,000] \$25,000  
2 for each day on which the violation occurs or failure to comply continues.

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 16-501.

16 (a) Any person who KNOWINGLY violates any provision of this title is guilty of  
17 a [misdemeanor] FELONY AND IS SUBJECT TO A FINE ~~OF NOT LESS THAN \$5,000 AND~~  
18 NOT EXCEEDING \$50,000 PER DAY OF VIOLATION OR IMPRISONMENT NOT EXCEEDING  
19 3 YEARS OR BOTH. [Unless another penalty is specifically provided elsewhere in this  
20 title, the person, upon conviction, is subject to a fine not exceeding \$500, with costs  
21 imposed in the discretion of the court.]

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

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

34 ~~(1) IF THE PERSON IS NOT AN ORGANIZATION, A FINE NOT EXCEEDING~~  
35 ~~\$500,000 OR IMPRISONMENT NOT EXCEEDING 20 YEARS OR BOTH; AND~~

36 ~~(2) IF THE PERSON IS AN ORGANIZATION, A FINE NOT EXCEEDING~~  
37 ~~\$2,000,000.~~

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

4     [(c)]     ~~(E)~~     (D)     In addition to any administrative penalty provided in this title,  
5 violation of any provision of any permit or license issued under this title or of any  
6 regulation adopted by any unit within the Department under the provisions of this  
7 title is a misdemeanor and is punishable as provided in subsections (a) and (b) of this  
8 section.

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

13    [(e)]     ~~(G)~~     (F)     (1)     The provisions of this title are enforceable against any  
14 person charged with dredging or filling private wetlands without a permit,  
15 notwithstanding a defense that pertinent wetlands maps and regulations had not  
16 been properly filed among the land records, if the court finds that the person charged  
17 had actual notice of the applicable regulatory requirements before the person dredged  
18 or filled the private wetlands.

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

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