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By: **Senators Frosh, Van Hollen, Conway, Pinsky, Teitelbaum, and Sfikas**  
Introduced and read first time: February 5, 1999  
Assigned to: Judicial Proceedings

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

11 BY repealing and reenacting, with amendments,  
12 Article - Environment  
13 Section 5-911, 9-343, 9-413, and 16-501  
14 Annotated Code of Maryland  
15 (1996 Replacement Volume and 1998 Supplement)

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

18 **Article - Environment**

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.

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

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

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

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

13 (i) For a first offense, a fine not exceeding [\$10,000] \$50,000 PER  
14 DAY OF VIOLATION OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH; or

15 (ii) For a second or subsequent offense, a fine not exceeding  
16 [\$25,000] \$100,000 PER DAY OF VIOLATION OR IMPRISONMENT NOT EXCEEDING 6  
17 YEARS OR BOTH.

18 (2) The court may order the person to restore the area unlawfully  
19 disturbed.

20 (F) 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 9-343.

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

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

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

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

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

1 (b) A person is guilty of a [misdemeanor] FELONY and on conviction is subject  
2 to a fine not exceeding \$10,000 or imprisonment not exceeding [6 months] 2 YEARS or  
3 both FOR A FIRST OFFENSE AND A FINE OF NOT MORE THAN \$20,000 OR  
4 IMPRISONMENT NOT EXCEEDING 4 YEARS OR BOTH FOR A VIOLATION COMMITTED  
5 AFTER THE FIRST CONVICTION, 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 subtitle or any rule, regulation, order, or permit  
9 adopted or issued under this subtitle; or

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

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

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

19 9-413.

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

22 (b) (1) A person who KNOWINGLY violates § 9-412(a)(1), (2), or (3) of this  
23 subtitle is guilty of a [misdemeanor] FELONY and on conviction is subject to a fine  
24 not exceeding [\$5,000] \$25,000 for each day on which the violation occurs or failure to  
25 comply continues.

26 (2) (I) A PERSON WHO TAMPERS WITH A PUBLIC WATER SYSTEM  
27 SHALL BE SUBJECT TO A FINE NOT EXCEEDING \$50,000 OR IMPRISONMENT NOT  
28 EXCEEDING 5 YEARS OR BOTH.

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

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

36 16-501.

37 (a) Any person who KNOWINGLY violates any provision of this title is guilty of  
38 a [misdemeanor] FELONY AND IS SUBJECT TO A FINE NOT EXCEEDING \$50,000 PER

1 DAY OF VIOLATION OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH. [Unless  
2 another penalty is specifically provided elsewhere in this title, the person, upon  
3 conviction, is subject to a fine not exceeding \$500, with costs imposed in the discretion  
4 of the court.]

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

12 (C) 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 [(c)] (D) In addition to any administrative penalty provided in this title,  
16 violation of any provision of any permit or license issued under this title or of any  
17 regulation adopted by any unit within the Department under the provisions of this  
18 title is a misdemeanor and is punishable as provided in subsections (a) and (b) of this  
19 section.

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

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

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

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 October 1, 1999.