
By: **Delegate Hubbard**

Introduced and read first time: February 9, 2001

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Health - Nuisance Control**

3 FOR the purpose of authorizing a local health officer to investigate and devise a
4 means to control a nuisance; making it discretionary instead of mandatory for
5 the Secretary of Health and Mental Hygiene to investigate and devise a means
6 to control a nuisance; authorizing a local health officer to file a complaint for
7 nuisance abatement in District Court or circuit court; authorizing the Secretary
8 or a local health officer to abate a nuisance under certain circumstances;
9 altering certain provisions relating to nuisances that apply in certain counties;
10 establishing certain penalties; defining a certain term; and generally relating to
11 nuisance abatement.

12 BY adding to

13 Article - Health - General
14 Section 20-301
15 Annotated Code of Maryland
16 (2000 Replacement Volume)

17 BY repealing and reenacting, with amendments,

18 Article - Health - General
19 Section 20-301, 20-302, 20-306 through 20-311, and 20-313
20 Annotated Code of Maryland
21 (2000 Replacement Volume)

22 BY repealing and reenacting, without amendments,

23 Article - Health - General
24 Section 20-312
25 Annotated Code of Maryland
26 (2000 Replacement Volume)

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

1 **Article - Health - General**

2 20-301.

3 IN THIS SUBTITLE, "NUISANCE" MEANS:

4 (1) ANY CONDITION THAT IS DANGEROUS TO HEALTH OR SAFETY, SUCH
5 AS AN INADEQUATELY PROTECTED SWIMMING POOL OR DITCH;6 (2) ANY CONDITION THAT MAY ADVERSELY AFFECT THE PUBLIC
7 HEALTH, SUCH AS AN UNSANITARY OUTHOUSE, A FOUL PIGPEN, AN IMPROPERLY
8 FUNCTIONING SEWAGE SYSTEM, AN UNKEMPT JUNKYARD, AN UNKEMPT SCRAP
9 METAL PROCESSING FACILITY, AN EXCESSIVE ACCUMULATION OF TRASH OR
10 GARBAGE, A DEAD ANIMAL, A CONTAMINATED WATER SUPPLY, AN INADEQUATELY
11 PROTECTED WATER SUPPLY, OR A RAT HARBORAGE;12 (3) HOUSEKEEPING IN ANY BUILDING THAT IS SO POOR THAT THE
13 HEALTH OF THE OWNER, AN OCCUPANT, AN EMPLOYEE, OR A NEIGHBOR MAY BE
14 ENDANGERED; OR15 (4) ANY CONDITION THAT MAY ENDANGER HEALTH THROUGH THE
16 SPREADING OF THE CONDITION BY ANY MEANS, INCLUDING BY A STREAM, SURFACE
17 DRAINAGE, AIR CURRENTS, WINGED LIFE, DOMESTIC ANIMALS, OR HUMAN BEINGS.

18 [20-301.] 20-302.

19 (A) Notwithstanding the provisions of Title 10 of the Environment Article, the
20 Secretary is responsible for the general care of the sanitary interests of the people of
21 the State.

22 [20-302.]

23 (B) The Secretary OR A LOCAL HEALTH OFFICER [shall] MAY:

24 (1) [investigate all nuisances that affect the public health]
25 INVESTIGATE ANY SUSPECTED NUISANCE; and26 (2) [devise] DEVISE means for the control of [these nuisances] THE
27 NUISANCE.

28 20-306.

29 (a) The health officer for each county:

30 (1) May investigate any [condition in the county that is dangerous to
31 human health] SUSPECTED NUISANCE; and32 (2) Shall investigate and report on the sanitary conditions of schools,
33 places of business, and places of employment in the county.

1 (b) [Except in Baltimore County, on the written complaint of a physician or of
2 at least 2 persons who claim to be affected by the condition, the health officer for the
3 county where the condition allegedly exists immediately shall investigate any
4 complaint that any of the following is in a condition dangerous to human health:

5 (1) Any watercourse, well, spring, open ditch, gutter, cesspool, drain,
6 outhouse, pigpen, or other place.

7 (2) Any accumulation or deposit of any substance.

8 (c) (1) If the health officer finds that [the condition of the place or thing
9 investigated may injure the life or health of any person, the place or thing is in a state
10 of nuisance and] A NUISANCE EXISTS, the health officer shall serve a written notice to
11 the person who is causing the nuisance, ordering the person to abate the nuisance
12 within a time specified in the notice.

13 (2) THE NOTICE SHALL BE SERVED:

14 (I) ON THE PERSON WHO IS CAUSING THE NUISANCE; OR

15 (II) IF THE PERSON WHO IS CAUSING THE NUISANCE CANNOT BE
16 FOUND, ON THE OWNER OR OCCUPANT OF THE PROPERTY WHERE THE NUISANCE
17 EXISTS.

18 [(d)] (C) A person may not refuse or neglect to comply with the requirements
19 of a notice served under this section.

20 [(e)] (D) If a question arises between health officers as to the jurisdiction or
21 duties of a health officer in the abatement of any [unhealthy] nuisance, the question
22 shall be referred to the Secretary, who shall settle the question.

23 (F) (1) A HEALTH OFFICER MAY FILE A COMPLAINT IN THE DISTRICT COURT
24 OR CIRCUIT COURT FOR THE COUNTY WHERE THE NUISANCE EXISTS IF:

25 (I) THE PERSON SERVED WITH A NOTICE UNDER THIS SECTION
26 FAILS TO COMPLY WITH THE REQUIREMENTS OF THE NOTICE; OR

27 (II) ALTHOUGH THE PERSON SERVED WITH A NOTICE UNDER THIS
28 SECTION COMPLIES WITH THE REQUIREMENTS OF THE NOTICE, THE NUISANCE IS
29 LIKELY TO RECUR ON THE SAME PROPERTY.

30 (2) A PERSON FILING A COMPLAINT UNDER THIS SUBSECTION MAY
31 SEEK A COURT ORDER REQUIRING THE PERSON SERVED WITH NOTICE TO:

32 (I) COMPLY WITH THE REQUIREMENTS OF THE HEALTH OFFICER'S
33 ABATEMENT NOTICE;

34 (II) ABATE THE NUISANCE WITHIN A TIME SPECIFIED IN THE
35 ORDER;

36 (III) PREVENT THE NUISANCE FROM RECURRING; OR

1 (IV) PAY A FINE NOT TO EXCEED \$1,000.

2 20-307.

3 [(a) On the written complaint of 2 physicians or of at least 3 persons who claim
4 to be affected by the condition, the Secretary shall investigate any complaint that any
5 of the following is in a condition that injures any adjacent property or that is
6 dangerous to human health:

7 (1) Any watercourse, well, spring, open ditch, gutter, cesspool, drain,
8 outhouse, pigpen, or other place.

9 (2) Any accumulation or deposit of offensive or noxious matter.

10 (3) Any house, building, trades establishment, or manufacturing place.

11 (4) Any water in which mosquito larvae breed.]

12 (A) THE SECRETARY MAY INVESTIGATE ANY SUSPECTED NUISANCE.

13 (b) (1) If the Secretary finds that [the condition of the place or thing
14 investigated may injure any adjacent property or may injure the life or health of any
15 individual, the place or thing is in a state of nuisance] A NUISANCE EXISTS and the
16 Secretary shall serve a written notice to the person who is causing the nuisance,
17 ordering the person to abate the nuisance within a time specified in the notice.

18 (2) The notice shall be served:

19 (i) On the person who is causing the nuisance; or

20 (ii) If the person who is causing the nuisance cannot be found, on
21 the owner or occupant of the property where the nuisance exists.

22 (c) (1) The Secretary may file a complaint in the circuit court for the county
23 where the nuisance exists if:

24 (i) The person served with the notice fails to comply with the
25 requirements of the notice; or

26 (ii) Although the person served complies with the requirements of
27 the notice, the nuisance is likely to recur on the same property.

28 (2) A complaint filed under this subsection may seek a court order
29 requiring the person served with the notice to [do any or all of the following]:

30 (i) [To comply] COMPLY with the requirements of the Secretary's
31 abatement notice[.];

32 (ii) [To abate] ABATE the nuisance within a time specified in the
33 order[.];

1 (iii) [To prevent] PREVENT the nuisance from recurring[.]; OR

2 (IV) PAY A FINE NOT TO EXCEED \$1,000.

3 20-308.

4 (a) [(1)] If, after investigation, the Secretary OR A LOCAL HEALTH OFFICER
5 finds that [any of the following conditions exists, the place or thing as to which the
6 condition exists is in a state of nuisance:

7 (i) The contents overflow or leak from an outhouse, a water closet,
8 a septic tank, or a cesspool and present a hazard to public health.

9 (ii) An outhouse, a water closet, or a cesspool is not flytight and
10 watertight and presents a hazard to public health.

11 (2) The] A NUISANCE EXISTS, THE Secretary OR LOCAL HEALTH
12 OFFICER summarily may abate [any condition that is in a state of] THE nuisance
13 [under this subsection].

14 (b) Before summarily abating a nuisance under this section, the Secretary OR
15 LOCAL HEALTH OFFICER shall:

16 (1) Serve an abatement order on the owner of the property where the
17 nuisance exists or, if the owner cannot be found, on the occupant or tenant of the
18 property; or

19 (2) If the property is unoccupied and the owner cannot be found, attach
20 an abatement order to the property where the nuisance exists.

21 (c) (1) The abatement order shall require and state:

22 (i) A time period within which the owner, occupant, or tenant of the
23 property where the nuisance exists shall abate the nuisance; and

24 (ii) The work and materials necessary to abate the nuisance.

25 (2) The time period within which to abate the nuisance may not be less
26 than 24 hours nor more than 5 days from the date and hour that the order is served.

27 (d) (1) If the owner, occupant, or tenant served with an abatement order
28 fails to abate or only partially abates the nuisance within the time specified in the
29 order, the Secretary [or a representative of the Secretary], LOCAL HEALTH OFFICER,
30 OR REPRESENTATIVE OF EITHER shall:

31 (i) Enter on the property; and

32 (ii) At the expense of the owner, occupant, or tenant of the property,
33 do any work and use any materials necessary to abate the nuisance.

1 (2) The Secretary OR LOCAL HEALTH OFFICER may not expend more
2 than [\$500] \$5,000 to abate the nuisance.

3 (e) If, within 60 days after the Secretary OR LOCAL HEALTH OFFICER has
4 completed an abatement under this section, the owner, occupant, or tenant does not
5 pay to the Secretary OR LOCAL HEALTH OFFICER the cost of the abatement, the
6 Secretary OR LOCAL HEALTH OFFICER shall file suit against the owner, occupant, or
7 tenant in the District Court for the county where the nuisance was abated.

8 (f) A person may not:

9 (1) Interfere with the Secretary [or a representative of the Secretary],
10 LOCAL HEALTH OFFICER, OR REPRESENTATIVE OF EITHER summarily abating a
11 nuisance under this section; or

12 (2) Refuse to allow the Secretary [or a representative of the Secretary],
13 LOCAL HEALTH OFFICER, OR REPRESENTATIVE OF EITHER to enter on any property
14 for the purpose of summarily abating a nuisance under this section.

15 20-309.

16 (A) A person who [refuses or neglects] FAILS to comply with the requirements
17 of a notice served BY THE SECRETARY OR A LOCAL HEALTH OFFICER under § 20-306
18 OR § 20-307 of this subtitle is guilty of a misdemeanor and on conviction is subject to
19 a fine not exceeding [\$50] \$1000.

20 (B) NOTHING IN THIS SECTION SHALL LIMIT THE JURISDICTION OF THE
21 CIRCUIT COURT TO ORDER INJUNCTIVE OR OTHER EQUITABLE RELIEF IN ABATING A
22 NUISANCE.

23 20-310.

24 (a) A person who fails to exercise due diligence under a court order to abate a
25 condition under § 20-306 OR § 20-307 of this subtitle is guilty of a misdemeanor and
26 on conviction is subject to:

27 (1) A fine not exceeding [\$10] \$1,000 for each day the condition is not
28 abated; and

29 (2) The cost of prosecution.

30 (b) A person who knowingly or willfully acts contrary to a court order to abate
31 a condition under § 20-306 OR § 20-307 of this subtitle is guilty of a misdemeanor and
32 on conviction is subject to:

33 (1) A fine not exceeding [\$20] \$200 for each day the violation continues;
34 and

35 (2) The cost of prosecution.

1 20-311.

2 In addition to any other penalty provided by law, a person is guilty of a
3 misdemeanor and on conviction is subject to a fine not exceeding [\$100] \$1,000 or
4 imprisonment not exceeding 30 days or both, if the person:

5 (1) Interferes with the Secretary [or a representative of the Secretary],
6 LOCAL HEALTH OFFICER, OR REPRESENTATIVE OF EITHER summarily abating a
7 nuisance under § 20-308 of this subtitle; or

8 (2) Refuses to allow the Secretary [or a representative of the Secretary],
9 LOCAL HEALTH OFFICER, OR REPRESENTATIVE OF EITHER to enter on any property
10 for the purpose of summarily abating a nuisance under § 20-308 of this subtitle.

11 20-312.

12 A person who violates any rule or regulation that the Secretary adopts under
13 Part I of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine
14 for each offense not exceeding the lesser of the penalty provided by the rule or
15 regulation or \$100.

16 20-313.

17 [(a) In this section, "nuisance" includes:

18 (1) Any condition that is dangerous to health or safety, such as an
19 inadequately protected swimming pool or ditch;

20 (2) Any condition that may adversely affect the public health, such as an
21 unsanitary outhouse, a foul pigpen, an improperly functioning sewage system, an
22 unkempt junkyard, an unkempt scrap metal processing facility, an excessive
23 accumulation of trash or garbage, dead animals, a contaminated water supply, an
24 inadequately protected water supply, or a rat harborage;

25 (3) Housekeeping in any building that is so poor that the health of the
26 owner, occupants, employees, or neighbors may be endangered; and

27 (4) Any condition that may endanger health through the spreading of the
28 condition by any means, including by streams, surface drainage, air currents, winged
29 life, domestic animals, or human beings.

30 (b)] In Cecil County or Allegany County, in addition to any other penalty
31 imposed by this subtitle, a person who refuses or neglects to comply with a notice or
32 order to abate a nuisance by the Secretary, or by the health officer for the county
33 where the nuisance exists, is guilty of a misdemeanor and on conviction is subject to
34 a fine not exceeding \$100 a day for each day the violation continues.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 2001.