

SENATE BILL 16

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M3

2001 Regular Session
(1r0116)

ENROLLED BILL

-- *Economic and Environmental Affairs/Environmental Matters* --

Introduced by **Chairman, Economic and Environmental Affairs Committee**
(Departmental - Environment)

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Drinking Water - Administrative Penalty Authority**

3 FOR the purpose of authorizing the Department of the Environment to impose
4 certain administrative penalties on certain suppliers of water serving certain
5 numbers of people for certain violations related to safe drinking water, after
6 considering certain factors; and generally relating to public water systems and
7 drinking water standards and requirements.

8 BY repealing and reenacting, with amendments,
9 Article - Environment
10 Section 9-413
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 2000 Supplement)

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

1 **Article - Environment**

2 9-413.

3 (a) A person who willfully violates § 9-412(a)(4) or (5) of this subtitle is subject
4 to a civil penalty of up to \$5,000 for each day on which the violation exists.5 (b) A person who violates § 9-412(a)(1), (2), or (3) of this subtitle is guilty of a
6 misdemeanor and on conviction is subject to a fine not exceeding \$5,000 for each day
7 on which the violation occurs or failure to comply continues.8 (c) In an action brought in the appropriate court to enforce the order, a person
9 who willfully violates or fails or refuses to comply with any order issued by the
10 Secretary under this subtitle may be fined not more than \$5,000 for each day on
11 which the violation occurs or failure to comply continues.12 (d) (1) In addition to any other remedies available at law and after an
13 opportunity for a hearing, which may be waived in writing by the person accused of a
14 violation, the Department may impose a penalty for violation of any provision of this
15 subtitle or any order, regulation, or plan adopted or issued under this subtitle.16 (2) The penalty imposed on a supplier of water [serving a population of
17 more than ~~10,000~~ ~~3,300~~ 10,000 under this subsection shall be:18 (i) Up to \$1,000 PER DAY for each violation, but not exceeding
19 \$25,000 total FOR EACH VIOLATION; and

20 (ii) Assessed with consideration given to:

21 1. The willfulness of the violation, the extent to which the
22 existence of the violation was known to but uncorrected by the violator, and the extent
23 to which the violator exercised reasonable care;24 2. Any actual harm to the environment or to human health,
25 including injury to or impairment of the use of the waters of this State or the natural
26 resources of the State;27 3. The cost of cleanup and the cost of restoration of natural
28 resources;29 4. The nature and degree of injury to or interference with
30 general welfare, health, and property;31 5. The extent to which the location of the violation, including
32 location near waters of this State or areas of human population, creates the potential
33 for harm to the environment or to human health or safety;34 6. The available technology and economic reasonableness of
35 controlling, reducing, or eliminating the violation;

1 7. The degree of hazard posed by the particular pollutant or
2 pollutants involved;

3 8. The extent to which the current violation is part of a
4 recurrent pattern of the same or similar type of violation committed by the violator;
5 and

6 9. Whether or not penalties were assessed or will be assessed
7 under other provisions of this subtitle.

8 (3) THE PENALTY IMPOSED ON A SUPPLIER OF WATER SERVING A
9 POPULATION OF 3,301 TO 10,000 UNDER THIS SUBSECTION SHALL BE:

10 (I) UP TO \$500 PER DAY FOR EACH VIOLATION, BUT NOT
11 EXCEEDING \$12,500 TOTAL FOR EACH VIOLATION; AND

12 (II) ASSESSED WITH CONSIDERATION GIVEN TO THE FACTORS SET
13 FORTH IN PARAGRAPH (2)(II) OF THIS SUBSECTION.

14 ~~(3) (4) EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION,~~
15 ~~THE PENALTY IMPOSED ON A SUPPLIER OF WATER SERVING A POPULATION OF 501~~
16 ~~TO 3,300 UNDER THIS SUBSECTION SHALL BE:~~

17 (I) UP TO \$500 \$250 PER DAY FOR EACH VIOLATION, BUT NOT
18 EXCEEDING \$10,000 \$6,250 TOTAL FOR EACH VIOLATION; AND

19 (II) ASSESSED WITH CONSIDERATION GIVEN TO THE FACTORS SET
20 FORTH IN PARAGRAPH (2)(II) OF THIS SUBSECTION.

21 ~~(4) (5) EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION,~~
22 ~~THE PENALTY IMPOSED ON A SUPPLIER OF WATER SERVING A POPULATION OF 500~~
23 ~~OR LESS UNDER THIS SUBSECTION SHALL BE:~~

24 (I) UP TO \$100 PER DAY FOR EACH VIOLATION, BUT NOT
25 EXCEEDING \$5,000 TOTAL FOR EACH VIOLATION; AND

26 (II) ASSESSED WITH CONSIDERATION GIVEN TO THE FACTORS SET
27 FORTH IN PARAGRAPH (2)(II) OF THIS SUBSECTION.

28 ~~(5) (1) THE DEPARTMENT MAY INCREASE THE PENALTY IMPOSED ON~~
29 ~~A SUPPLIER OF WATER SERVING A POPULATION OF 3,300 OR LESS, ON A~~
30 ~~CASE BY CASE BASIS, UP TO THE MAXIMUM PENALTIES SPECIFIED IN PARAGRAPH~~
31 ~~(2)(I) OF THIS SUBSECTION:~~

32 1. IF THE DEPARTMENT DETERMINES THAT THE PENALTIES
33 SPECIFIED IN PARAGRAPH (3)(I) OR (4)(I) OF THIS SUBSECTION WILL NOT
34 ADEQUATELY PROTECT THE INTERESTS OF THE STATE AND ENSURE COMPLIANCE
35 WITH THIS SUBTITLE; AND

1 ~~2. AFTER CONSIDERING THE FACTORS SET FORTH IN~~
2 ~~PARAGRAPH (2)(II) OF THIS SUBSECTION.~~

3 ~~(II) IF THE DEPARTMENT DETERMINES THAT A HIGHER PENALTY~~
4 ~~IS REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT~~
5 ~~SHALL PROVIDE NOTICE TO THE SUPPLIER OF THE REASONS FOR THE HIGHER~~
6 ~~ASSESSMENT.~~

7 ~~(3)~~ (6) Each day a violation occurs is a separate violation under this
8 subsection.

9 ~~(4)~~ (7) Any penalty imposed under this subsection is payable to the
10 State and collectible in any manner provided at law for the collection of penalties.

11 ~~(5)~~ (8) All penalties collected under this subtitle shall be paid into the
12 Maryland Clean Water Fund created under § 9-320 of this article.

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