

SENATE BILL 16

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2001 Regular Session
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(PRE-FILED)

By: **Chairman, Economic and Environmental Affairs Committee**
(Departmental - Environment)

Requested: November 14, 2000
Introduced and read first time: January 10, 2001
Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: February 15, 2001

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:

15 **Article - Environment**

16 9-413.

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

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

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

8 (d) (1) In addition to any other remedies available at law and after an
9 opportunity for a hearing, which may be waived in writing by the person accused of a
10 violation, the Department may impose a penalty for violation of any provision of this
11 subtitle or any order, regulation, or plan adopted or issued under this subtitle.

12 (2) The penalty imposed on a supplier of water {serving a population of
13 more than ~~10,000~~ 3,300 under this subsection shall be:

14 (i) Up to \$1,000 PER DAY for each violation, but not exceeding
15 \$25,000 total FOR EACH VIOLATION; and

16 (ii) Assessed with consideration given to:

17 1. The willfulness of the violation, the extent to which the
18 existence of the violation was known to but uncorrected by the violator, and the extent
19 to which the violator exercised reasonable care;

20 2. Any actual harm to the environment or to human health,
21 including injury to or impairment of the use of the waters of this State or the natural
22 resources of the State;

23 3. The cost of cleanup and the cost of restoration of natural
24 resources;

25 4. The nature and degree of injury to or interference with
26 general welfare, health, and property;

27 5. The extent to which the location of the violation, including
28 location near waters of this State or areas of human population, creates the potential
29 for harm to the environment or to human health or safety;

30 6. The available technology and economic reasonableness of
31 controlling, reducing, or eliminating the violation;

32 7. The degree of hazard posed by the particular pollutant or
33 pollutants involved;

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

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

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

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

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

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

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

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

17 (5) (I) THE DEPARTMENT MAY INCREASE THE PENALTY IMPOSED ON
18 A SUPPLIER OF WATER SERVING A POPULATION OF 3,300 OR LESS, ON A
19 CASE-BY-CASE BASIS, UP TO THE MAXIMUM PENALTIES SPECIFIED IN PARAGRAPH
20 (2)(I) OF THIS SUBSECTION:

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

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

27 (II) IF THE DEPARTMENT DETERMINES THAT A HIGHER PENALTY
28 IS REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT
29 SHALL PROVIDE NOTICE TO THE SUPPLIER OF THE REASONS FOR THE HIGHER
30 ASSESSMENT.

31 ~~(3)~~ (6) Each day a violation occurs is a separate violation under this
32 subsection.

33 ~~(4)~~ (7) Any penalty imposed under this subsection is payable to the
34 State and collectible in any manner provided at law for the collection of penalties.

35 ~~(5)~~ (8) All penalties collected under this subtitle shall be paid into the
36 Maryland Clean Water Fund created under § 9-320 of this article.

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