

SENATE BILL 672

Unofficial Copy  
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2002 Regular Session  
(21r1246)

*ENROLLED BILL*  
*-- Judicial Proceedings/Environmental Matters --*

Introduced by **Senators Munson, Baker, Jimeno, and Middleton**

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 **Nuisance Control - Authority to Investigate and File a Complaint - Penalties**  
3 **for Violations**

4 FOR the purpose of authorizing local health officers to investigate suspected  
5 nuisances and to file a complaint for nuisance abatement under certain  
6 circumstances in a certain court; requiring a certain notice for abatement of a  
7 nuisance; specifying the terms of a notice for abatement of a nuisance;  
8 authorizing the Secretary of Health and Mental Hygiene, a local health officer,  
9 ~~or their representative~~ the representative of the Secretary or local health official  
10 officer to summarily abate a nuisance under certain circumstances; specifying  
11 certain provisions that may be included in a request for a court order; providing  
12 certain fines for certain violations of this Act; establishing certain criminal  
13 penalties for certain violations of this Act; defining a certain term; ~~requiring~~  
14 authorizing the Secretary of Health and Mental Hygiene to adopt certain  
15 regulations; providing for the construction of certain provisions of law; and  
16 generally relating to the abatement of nuisances.

17 BY adding to

1 Article - Health - General  
2 Section 20-301 and 20-314  
3 Annotated Code of Maryland  
4 (2000 Replacement Volume and 2001 Supplement)

5 BY repealing and reenacting, with amendments,  
6 Article - Health - General  
7 Section 20-301, 20-302, 20-305, 20-306, 20-307, 20-308, 20-309, 20-310,  
8 20-311, 20-312, and 20-313  
9 Annotated Code of Maryland  
10 (2000 Replacement Volume and 2001 Supplement)

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

13 **Article - Health - General**

14 20-301.

15 (A) IN THIS SUBTITLE, "NUISANCE" MEANS A CONDITION THAT IS DANGEROUS  
16 TO HEALTH OR SAFETY INCLUDING:

- 17 (1) AN INADEQUATELY PROTECTED SWIMMING POOL;
- 18 (2) AN UNPROTECTED OPEN DITCH;
- 19 (3) AN UNSANITARY OUTHOUSE;
- 20 (4) A FOUL PIGPEN;
- 21 (5) AN IMPROPERLY FUNCTIONING SEWAGE SYSTEM;
- 22 (6) AN UNKEMPT JUNKYARD;
- 23 (7) AN UNKEMPT SCRAP METAL PROCESSING FACILITY;
- 24 (8) AN EXCESSIVE ACCUMULATION OF TRASH OR GARBAGE;
- 25 (9) A DEAD ANIMAL;
- 26 (10) A CONTAMINATED WATER SUPPLY;
- 27 (11) AN INADEQUATELY PROTECTED WATER SUPPLY;
- 28 (12) A RODENT HARBORAGE;
- 29 (13) POOR HOUSEKEEPING THAT COULD ENDANGER THE HEALTH OF  
30 THE OWNER, OCCUPANT, EMPLOYEE, OR A NEIGHBOR; OR

1 (14) ANY CONDITION THAT MAY ENDANGER HEALTH THAT MAY BE  
2 TRANSMITTED BY MEANS INCLUDING:

- 3 (I) RUNNING STREAMS;  
4 (II) SURFACE DRAINAGE;  
5 (III) AIR CURRENTS;  
6 (IV) BIRDS;  
7 (V) DOMESTIC ANIMALS; OR  
8 (VI) HUMAN BEINGS.

9 (B) "NUISANCE" DOES NOT INCLUDE ANY CONDITION RESULTING FROM A  
10 FARM OPERATION FOLLOWING COOPERATIVE EXTENSION SERVICE OR SOIL  
11 CONSERVATION SERVICE "BEST MANAGEMENT PRACTICES" GENERALLY ACCEPTED  
12 AGRICULTURAL PRACTICES THAT ARE NOT CREATING A CONDITION DANGEROUS TO  
13 HUMAN HEALTH HEALTH OR SAFETY.

14 [20-301.] 20-301.1.

15 Notwithstanding the provisions of Title 10 of the Environment Article, the  
16 Secretary is responsible for the general care of the sanitary interests of the people of  
17 the State.

18 20-302.

19 The Secretary OR A LOCAL HEALTH OFFICER [shall] MAY investigate [all  
20 nuisances] A SUSPECTED NUISANCE [that affect the public health] and devise means  
21 for the control of [these nuisances] THE NUISANCE.

22 20-305.

23 The Secretary OR A LOCAL HEALTH OFFICER may bring an action to enjoin any  
24 person from committing any nuisance subject to this subtitle.

25 20-306.

26 (a) The health officer for each county:

27 (1) May investigate any [condition in the county that is dangerous to  
28 human health] SUSPECTED NUISANCE; and

29 (2) Shall investigate and report on the sanitary conditions of schools,  
30 places of business, and places of employment in the county.

31 [(b) Except in Baltimore County, on the written complaint of a physician or of  
32 at least 2 persons who claim to be affected by the condition, the health officer for the

1 county where the condition allegedly exists immediately shall investigate any  
2 complaint that any of the following is in a condition dangerous to human health:

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

5 (2) Any accumulation or deposit of any substance.]

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

11 (2) THE NOTICE SHALL BE SERVED:

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

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

16 [(d) (C) [A person may not refuse or neglect] FAILURE to comply with the  
17 requirements of a notice served under this section IS A VIOLATION OF THIS SUBTITLE.

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

22 (E) (1) A HEALTH OFFICER MAY FILE A COMPLAINT IN THE CIRCUIT COURT  
23 FOR THE COUNTY WHERE THE NUISANCE EXISTS IF:

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

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

29 (2) A COMPLAINT FILED UNDER THIS SUBSECTION MAY SEEK A COURT  
30 ORDER REQUIRING THE INDIVIDUAL SERVED WITH A NOTICE UNDER SUBSECTION  
31 (B) OF THIS SECTION TO:

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

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

35 (III) PREVENT THE NUISANCE FROM RECURRING; OR

1 (IV) PAY A FINE OF NOT MORE THAN \$1,000.

2 20-307.

3 (a) [On the written complaint of 2 physicians or of at least 3 persons who  
4 claim to be affected by the condition, the Secretary shall investigate any complaint  
5 that any 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] THE SECRETARY MAY  
12 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 and] A NUISANCE EXISTS, 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.] NOTICE;

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

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

3 (IV) PAY A FINE OF NOT MORE THAN \$1,000.

4 20-308.

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

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

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

12 (2) The] A NUISANCE EXISTS THAT PRESENTS AN IMMEDIATE HAZARD  
13 TO PUBLIC HEALTH, THE Secretary OR LOCAL HEALTH OFFICER MAY summarily  
14 [may] abate [any condition that is in a state of] THE nuisance [under this  
15 subsection].

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

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

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

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

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

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

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

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

34 (i) Enter on the property; and

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

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

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

10 (f) A person may not:

11 (1) Interfere with the Secretary [or a representative of the Secretary],  
12 LOCAL HEALTH OFFICER, OR ~~THEIR REPRESENTATIVE~~ THE REPRESENTATIVE OF  
13 THE SECRETARY OR LOCAL HEALTH OFFICER summarily abating a nuisance under  
14 this section; or

15 (2) Refuse to allow the Secretary [or a representative of the Secretary],  
16 LOCAL HEALTH OFFICER, OR ~~THEIR REPRESENTATIVE~~ THE REPRESENTATIVE OF  
17 THE SECRETARY OR LOCAL HEALTH OFFICER to enter on any property for the  
18 purpose of summarily abating a nuisance under this section.

19 20-309.

20 A person who [refuses or neglects] FAILS to comply with the requirements of a  
21 notice served under § 20-306 OR § 20-307 of this subtitle is guilty of a misdemeanor  
22 and on conviction is subject to a fine not exceeding [\$50] \$1,000.

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 for each day the condition is not abated]  
28 \$1,000; 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 for each day the violation continues] \$1,000;  
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 ~~THEIR REPRESENTATIVE~~ THE REPRESENTATIVE OF  
7 THE SECRETARY OR LOCAL HEALTH OFFICER summarily abating a nuisance under §  
8 20-308 of this subtitle; or

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

13 20-312.

14 (A) ~~THE SECRETARY SHALL~~ MAY ADOPT REGULATIONS TO IMPLEMENT THE  
15 PROVISIONS OF THIS SUBTITLE.

16 (B) A person who violates any rule or regulation that the Secretary adopts  
17 under [Part I of] this subtitle is guilty of a misdemeanor [and on conviction is subject  
18 to a fine for each offense not exceeding the lesser of the penalty provided by the rule  
19 or regulation or \$100].

20 20-313.

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

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

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

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

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

34 (b)] In Cecil County or Allegany County, in addition to any other penalty  
35 imposed by this subtitle, a person who refuses or neglects to comply with a notice or  
36 order to abate a nuisance by the Secretary, or by the health officer for the county

1 where the nuisance exists, is guilty of a misdemeanor and on conviction is subject to  
2 a fine not exceeding \$100 a day for each day the violation continues.

3 20-314.

4 SECTIONS ~~20-309~~ 20-310 THROUGH 20-313 OF THIS SUBTITLE MAY NOT BE  
5 CONSTRUED TO ABROGATE ANY EQUITABLE OR LEGAL RIGHT OR REMEDY  
6 OTHERWISE AVAILABLE UNDER THE LAW TO ABATE A NUISANCE.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2002.