

SENATE BILL 393

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M3

2003 Regular Session
(3lr1283)

ENROLLED BILL

-- Education, Health, and Environmental Affairs/Environmental Matters --

Introduced by **Senators Pinsky, Britt, Conway, Frosh, Gladden, Grosfeld,
Kelley, and Teitelbaum**

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 **Sediment Control, Stormwater Management, and Wetlands, ~~and Water~~**
3 **~~Pollution Control~~ Programs - Violations - Criminal and Civil Penalties**

4 FOR the purpose of altering the amounts of certain criminal penalties applicable to
5 certain sediment control, stormwater management, and tidal ~~and nontidal~~
6 wetlands program violations; authorizing certain courts to order restoration of
7 certain areas in the event of certain criminal violations of certain sediment
8 control and stormwater management programs; altering the amounts of certain
9 civil penalties applicable to certain sediment ~~control, stormwater management,~~
10 ~~nontidal wetlands, and water pollution control program~~ control and stormwater
11 management violations; repealing the requirement of a certain proof of costs
12 applicable to certain civil actions instituted by certain government agencies in
13 the event of certain sediment control program violations; instituting a certain
14 civil penalty applicable to certain tidal wetlands program violations; authorizing
15 the court to consider certain costs in imposing a certain penalty; authorizing the
16 court to consider certain factors in imposing a certain penalty; and generally

1 relating to enforcement of the sediment control, stormwater management,
2 ~~wetlands, and water pollution control~~ and wetlands programs.

3 BY repealing and reenacting, with amendments,
4 Article - Environment
5 Section 4-116(a) and (c), 4-215(a) and (c), ~~5-911(d) and (e), 9-342(a)~~, 16-501(a)
6 and (b), and 16-502(a)
7 Annotated Code of Maryland
8 (1996 Replacement Volume and 2002 Supplement)

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

11 **Article - Environment**

12 4-116.

13 (a) (1) Any person who violates any provision of this subtitle is guilty of a
14 misdemeanor, and upon conviction in a court of competent jurisdiction is subject to a
15 fine not exceeding [\$5,000] ~~\$15,000~~ \$10,000 or imprisonment not exceeding one year or
16 both for each violation with costs imposed in the discretion of the court.

17 (2) THE COURT MAY ORDER THE PERSON TO RESTORE THE AREA
18 UNLAWFULLY DISTURBED.

19 (3) Each day upon which the violation occurs constitutes a separate
20 offense.

21 (c) (1) In addition to any other sanction under this subtitle, [a person is
22 liable for a civil penalty as provided in this subsection if the person:

23 (i) Clears, grades, transports, or otherwise disturbs land without
24 first installing erosion and sediment controls in accordance with an approved plan; or

25 (ii) Fails to establish erosion and sediment controls in accordance
26 with an approved plan within the time specified by a State, county, or municipal order
27 or to maintain those erosion and sediment controls.

28 (2) The appropriate county, municipal, or State agency may recover a
29 civil penalty under paragraph (1) of this subsection in a civil action in an amount
30 equal to double the cost of:

31 (i) The installation of erosion and sediment controls in accordance
32 with an approved plan;

33 (ii) Maintaining erosion and sediment controls in accordance with
34 an approved plan; and

1 (iii) The permanent restoration of the disturbed land to a stable
2 condition.

3 (3) The appropriate county, municipal, or State agency may recover a
4 civil penalty under paragraph (1) of this subsection on proof of costs as specified in
5 paragraph (2) of this subsection, without the necessity of proving that the agency
6 performed work or incurred expenses. However, if any person responsible has made
7 the required corrections within the time specified by a State, county, or municipal
8 order, the appropriate State, county, or municipal agency may recover a civil penalty
9 under this subsection in an amount equal to not more than 50 percent of the costs
10 specified in paragraph (2) of this subsection] THE APPROPRIATE STATE, COUNTY, OR
11 MUNICIPAL AGENCY MAY BRING A CIVIL ACTION AGAINST A PERSON FOR A
12 VIOLATION OF THIS SUBTITLE.

13 (2) (I) THE ACTION MAY SEEK THE IMPOSITION OF A CIVIL PENALTY
14 UP TO ~~\$15,000~~ \$10,000 FOR EACH VIOLATION.

15 (II) IN IMPOSING A PENALTY UNDER THIS PARAGRAPH, THE COURT
16 MAY CONSIDER THE COST OF RESTORING THE AREA UNLAWFULLY DISTURBED.

17 [(4)] (3) [Any county, municipal, or] A State, COUNTY, OR MUNICIPAL
18 agency that recovers penalties in accordance with this subtitle shall deposit them in a
19 special fund, to be used solely for:

20 (i) Correcting to the extent possible the failure to implement or
21 maintain erosion and sediment controls; and

22 (ii) Administration of the sediment control program.

23 4-215.

24 (a) (1) Any person who violates any provision of this subtitle or any
25 regulation or stormwater management plan adopted or approved under this subtitle
26 is guilty of a misdemeanor and upon conviction in a court of competent jurisdiction is
27 subject to a fine not exceeding [~~\$5,000~~ ~~\$15,000~~ \$10,000] or imprisonment not exceeding
28 1 year or both for each violation with costs imposed in the discretion of the court.

29 (2) THE COURT MAY ORDER THE PERSON TO RESTORE THE AREA
30 UNLAWFULLY DISTURBED.

31 (3) Each day upon which the violation occurs constitutes a separate
32 offense.

33 (c) (1) In addition to any other sanction under this subtitle, the Department
34 or the Department of Natural Resources, as appropriate, or a political subdivision
35 may bring a civil action against any person for any violation of this subtitle or any
36 regulation or stormwater management plan adopted or approved under this subtitle.

1 (2) The action may seek the imposition of a civil penalty of not more than
 2 ~~[\$10,000]~~ \$15,000 against the person, an injunction to prohibit the person from
 3 continuing the violation or both.

4 ~~5-911.~~

5 ~~(d) (1) A person who violates any provision of this subtitle or any regulation,
 6 order, or permit under this subtitle is liable for a penalty not exceeding [\$10,000]
 7 \$15,000, which may be recovered in a civil action brought by the Department.~~

8 ~~(2) Each day a violation continues is a separate violation under this
 9 subsection.~~

10 ~~[(2)] (3) The court may issue an injunction requiring the person to cease
 11 the violation and restore the area unlawfully disturbed.~~

12 ~~(e) (1) A person who violates any provision of or fails to perform any duty
 13 imposed by this subtitle or by a regulation, order, or permit under this subtitle is
 14 guilty of a misdemeanor and on conviction is subject to:~~

15 ~~(i) For a first offense, a fine not exceeding [\$10,000] \$15,000; or~~

16 ~~(ii) For a second or subsequent offense, a fine not exceeding
 17 [\$25,000] \$30,000.~~

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

20 ~~9-342.~~

21 ~~(a) (1) In addition to being subject to an injunctive action under this
 22 subtitle, a person who violates any provision of this subtitle or of any rule, regulation,
 23 order, or permit adopted or issued under this subtitle is liable to a civil penalty not
 24 exceeding [\$10,000] \$15,000, to be collected in a civil action brought by the
 25 Department.~~

26 ~~(2) Each day a violation occurs is a separate violation under this
 27 subsection.~~

28 ~~16-501.~~

29 (a) Any person who violates any provision of this title is guilty of a
 30 misdemeanor. Unless another penalty is specifically provided elsewhere in this title,
 31 the person, upon conviction, is subject to a fine not exceeding [\$500] ~~\$15,000~~ \$10,000,
 32 with costs imposed in the discretion of the court.

33 (b) Any person found guilty of a second or subsequent violation of any
 34 provision of this title, unless another penalty is specifically provided elsewhere in this
 35 title, is subject to a fine not exceeding [\$1,000] ~~\$30,000~~ \$25,000, or imprisonment not
 36 exceeding 1 year, or both with costs imposed in the discretion of the court. For the

1 purpose of this subsection, a second or subsequent violation is a violation which has
2 occurred within 2 years of any prior violation of this title.

3 16-502.

4 (a) (1) [In lieu of the State prosecuting a criminal action under any
5 provision of this title, the Attorney General may bring a civil action in the circuit
6 court against any] A person who violates any provision of this title or any regulation,
7 permit, license, or order issued under this title SHALL BE LIABLE FOR A PENALTY NOT
8 EXCEEDING ~~\$15,000~~ \$10,000, WHICH MAY BE RECOVERED IN A CIVIL ACTION.

9 (2) IN IMPOSING A PENALTY UNDER THIS SUBSECTION, THE COURT MAY
10 CONSIDER THE FACTORS IN § 9-342(B)(2)(II) OF THIS ARTICLE AND ANY OTHER
11 RELEVANT FACTORS.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
13 effect October 1, 2003.