

SENATE BILL 393

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2003 Regular Session  
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By: **Senators Pinsky, Britt, Conway, Frosh, Gladden, Grosfeld, Kelley, and Teitelbaum**

Introduced and read first time: January 31, 2003

Assigned to: Education, Health, and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Sediment Control, Stormwater Management, Wetlands, and Water Pollution**  
3 **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 violations; repealing the  
11 requirement of a certain proof of costs applicable to certain civil actions  
12 instituted by certain government agencies in the event of certain sediment  
13 control program violations; instituting a certain civil penalty applicable to  
14 certain tidal wetlands program violations; and generally relating to enforcement  
15 of the sediment control, stormwater management, wetlands, and water pollution  
16 control programs.

17 BY repealing and reenacting, with amendments,  
18 Article - Environment  
19 Section 4-116(a) and (c), 4-215(a) and (c), 5-911(d) and (e), 9-342(a), 16-501(a)  
20 and (b), and 16-502(a)  
21 Annotated Code of Maryland  
22 (1996 Replacement Volume and 2002 Supplement)

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

25 **Article - Environment**

26 4-116.

27 (a) (1) Any person who violates any provision of this subtitle is guilty of a  
28 misdemeanor, and upon conviction in a court of competent jurisdiction is subject to a

1 fine not exceeding [\$5,000] \$15,000 or imprisonment not exceeding one year or both  
2 for each violation with costs imposed in the discretion of the court.

3 (2) THE COURT MAY ORDER THE PERSON TO RESTORE THE AREA  
4 UNLAWFULLY DISTURBED.

5 (3) Each day upon which the violation occurs constitutes a separate  
6 offense.

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

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

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

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

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

19 (ii) Maintaining erosion and sediment controls in accordance with  
20 an approved plan; and

21 (iii) The permanent restoration of the disturbed land to a stable  
22 condition.

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

33 (2) THE ACTION MAY SEEK THE IMPOSITION OF A CIVIL PENALTY UP TO  
34 \$15,000 FOR EACH VIOLATION.

35 [(4)] (3) [Any county, municipal, or] A State, COUNTY, OR MUNICIPAL  
36 agency that recovers penalties in accordance with this subtitle shall deposit them in a  
37 special fund, to be used solely for:

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

3 (ii) Administration of the sediment control program.

4 4-215.

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

10 (2) THE COURT MAY ORDER THE PERSON TO RESTORE THE AREA  
11 UNLAWFULLY DISTURBED.

12 (3) Each day upon which the violation occurs constitutes a separate  
13 offense.

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

18 (2) The action may seek the imposition of a civil penalty of not more than  
19 [\$10,000] \$15,000 against the person, an injunction to prohibit the person from  
20 continuing the violation or both.

21 5-911.

22 (d) (1) A person who violates any provision of this subtitle or any regulation,  
23 order, or permit under this subtitle is liable for a penalty not exceeding [\$10,000]  
24 \$15,000, which may be recovered in a civil action brought by the Department.

25 (2) Each day a violation continues is a separate violation under this  
26 subsection.

27 [(2)] (3) The court may issue an injunction requiring the person to cease  
28 the violation and restore the area unlawfully disturbed.

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

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

33 (ii) For a second or subsequent offense, a fine not exceeding  
34 [\$25,000] \$30,000.

35 (2) The court may order the person to restore the area unlawfully  
36 disturbed.

1 9-342.

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

7 (2) Each day a violation occurs is a separate violation under this  
8 subsection.

9 16-501.

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

14 (b) Any person found guilty of a second or subsequent violation of any  
15 provision of this title, unless another penalty is specifically provided elsewhere in this  
16 title, is subject to a fine not exceeding [\$1,000] \$30,000, or imprisonment not  
17 exceeding 1 year, or both with costs imposed in the discretion of the court. For the  
18 purpose of this subsection, a second or subsequent violation is a violation which has  
19 occurred within 2 years of any prior violation of this title.

20 16-502.

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

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