

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 393

(Senator Pinsky, *et al.*)

Education, Health, and Environmental Affairs

Environmental Matters

**Sediment Control, Stormwater Management, and Wetlands Programs - Violations -
Criminal and Civil Penalties**

This bill expands existing criminal and civil penalty provisions related to violations of specified sediment erosion and control, stormwater management, and wetlands and riparian rights provisions administered by the Maryland Department of the Environment (MDE). For violations of specified sediment control and stormwater management provisions, the bill also authorizes courts to order restoration of areas unlawfully disturbed.

Fiscal Summary

State Effect: Potential increase in special fund and general fund revenues beginning in FY 2004 due to the bill's enhanced penalty provisions.

Local Effect: Local revenues could increase due to the bill's enhanced penalty provisions for those cases heard in the circuit courts and for violations of specified provisions delegated by MDE to locals. Assuming local governments comply with the provisions of law affected by the bill, expenditures would not be significantly affected.

Small Business Effect: None, assuming small businesses comply with the provisions of law affected by the bill.

Analysis

Bill Summary/Current Law: Current law provides for various levels of criminal and civil penalties for violations of the provisions of law affected by the bill. Existing

criminal offenses are considered misdemeanors. The bill's changes are shown in **Appendix 1**.

Background: MDE administers several programs that relate to the provisions affected by the bill. As part of its water quality and water pollution control programs, MDE sets water quality standards for the level of protection afforded to each body of water in the State. The mission of MDE's Water Supply Program is to ensure that public drinking water systems provide safe and adequate water to all present and future users in Maryland, and that appropriate usage, planning, and conservation policies are implemented for Maryland's water resources. MDE's Wetlands and Waterways Program seeks to conserve valuable aquatic systems, providing for the environmental, economic, and resource needs of the State.

According to MDE, penalties for similar water pollution violations in many states are higher than the existing penalties in Maryland. In general, the penalties affected by the bill have not been increased since 1987.

State Revenues: Because the deterrent effect of the bill cannot be predicted, a reliable estimate of any additional penalty revenues that would be collected cannot be made at this time. However, revenues could increase beginning in fiscal 2004. Legislative Services notes that the bill could affect both special fund revenues and general fund revenues. While some of the penalties affected by the bill are paid into designated special funds, some are not. Accordingly, general fund revenues could increase as a result of the bill's enhanced penalty provisions for cases heard in the District Court.

Additional Information

Prior Introductions: SB 241/HB 294 of 2002, among other things, would have expanded existing criminal and civil penalty provisions relating to water management. SB 241 received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee. HB 294 received an unfavorable report from the House Environmental Matters Committee.

Cross File: HB 715 (Delegate Hubbard, *et al.*) – Environmental Matters.

Information Source(s): Maryland Department of the Environment, Department of Legislative Services

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Appendix 1. Existing Criminal and Civil Penalties and Changes Made Under SB 393

	Existing Criminal Penalties	Criminal Penalties Under SB 393	Existing Civil Penalties	Civil Penalties Under SB 393
Sediment and erosion control	Up to \$5,000 per violation or 1 year in jail or both	Up to \$10,000 per violation or 1 year in jail, or both; court may order restoration	Double the cost of restoration	Up to \$10,000 per violation; court may consider restoration costs in imposing a penalty
Stormwater management	Up to \$5,000 per violation or 1 year in jail or both	Up to \$10,000 per violation or 1 year in jail, or both; court may order restoration	Up to \$10,000 for each violation or an injunction or both	No change
Wetlands/ riparian rights in general, if not specified elsewhere	First offense: up to \$500; next offenses: up to \$1,000 or 1 year in jail, or both	First offense: up to \$10,000; next offenses: up to \$25,000 or 1 year in jail, or both	Attorney General may bring a civil action (no amount specified); circuit court may issue injunction	Up to \$10,000; court may consider specified factors in imposing a penalty; circuit court may issue injunction