

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO HOUSE BILL NO. 494
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, after “Criminal” insert “and Administrative”; in line 3, after “of” insert “authorizing the Department of the Environment to impose certain penalties for violations of tidal wetlands provisions under certain circumstances; establishing certain criteria for consideration in the assessment of the penalties;”; and in line 10, strike “tidal wetlands” and substitute “criminal and administrative penalties for violations of tidal wetlands provisions”.

On page 2, after line 8, insert:

“BY adding to

Article - Environment

Section 16-502(c)

Annotated Code of Maryland

(1996 Replacement Volume and 2003 Supplement)”.

AMENDMENT NO. 2

On page 2, in line 35, strike “AND”.

On page 3, in line 2, after “TITLE” insert “; AND

(III) ANY PENALTY IMPOSED BY THE DEPARTMENT UNDER THIS TITLE”.

On page 4, after line 28, insert:

“16-502.

(Over)

(C) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN EQUITY AND AFTER AN OPPORTUNITY FOR A HEARING WHICH MAY BE WAIVED IN WRITING BY THE PERSON ACCUSED OF A VIOLATION, THE DEPARTMENT MAY IMPOSE A PENALTY FOR VIOLATION OF ANY PROVISION OF THIS TITLE OR ANY RULE, REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER THIS TITLE.

(2) THE PENALTY IMPOSED ON A PERSON UNDER THIS SUBSECTION SHALL BE:

(I) UP TO \$1,000 FOR EACH VIOLATION, BUT NOT EXCEEDING \$50,000 TOTAL; AND

(II) ASSESSED WITH CONSIDERATION GIVEN TO:

1. THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED REASONABLE CARE;

2. ANY ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH, INCLUDING INJURY TO OR IMPAIRMENT OF ANY STATE OR PRIVATE WETLANDS, OR ANY WATERS OF THE STATE OR OTHER NATURAL RESOURCES OF THE STATE;

3. THE COST OF CLEANUP AND THE COST OF RESTORATION OF NATURAL RESOURCES;

4. THE NATURE AND DEGREE OF INJURY TO OR INTERFERENCE WITH GENERAL WELFARE, HEALTH, AND PROPERTY;

5. THE EXTENT TO WHICH THE LOCATION OF THE VIOLATION, INCLUDING LOCATION NEAR STATE OR PRIVATE WETLANDS, OTHER WATERS OF THE STATE, OR AREAS OF HUMAN POPULATION, CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH AND SAFETY;

6. THE AVAILABLE TECHNOLOGY AND ECONOMIC REASONABLENESS OF CONTROLLING, REDUCING, OR ELIMINATING THE VIOLATION;

7. THE DEGREE OF HAZARD POSED BY THE PARTICULAR POLLUTANT OR POLLUTANTS INVOLVED; AND

8. THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION COMMITTED BY THE VIOLATOR.

(3) EACH DAY A VIOLATION OCCURS OR CONTINUES IS A SEPARATE VIOLATION UNDER THIS SUBSECTION.

(4) ANY PENALTY COLLECTED UNDER THIS SUBSECTION IS PAYABLE TO THE STATE AND COLLECTIBLE IN ANY MANNER PROVIDED AT LAW FOR THE COLLECTION OF DEBTS.

(5) IF ANY PERSON WHO IS LIABLE TO PAY A PENALTY IMPOSED UNDER THIS SUBSECTION FAILS TO PAY IT AFTER DEMAND, THE AMOUNT TOGETHER WITH INTEREST AND ANY COSTS THAT MAY ACCRUE, SHALL BE:

(I) A LIEN IN FAVOR OF THE STATE ON ANY PROPERTY, REAL OR PERSONAL, OF THE PERSON; AND

(II) RECORDED IN THE OFFICE OF THE CLERK OF THE COURT FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(6) ANY PENALTY COLLECTED UNDER THIS SUBSECTION SHALL BE PLACED IN THE TIDAL WETLANDS COMPENSATION FUND ESTABLISHED UNDER § 16-205 OF THIS TITLE.”.