
By: **Chairman, Environmental Matters Committee (By Request -
Departmental - Environment)**

Introduced and read first time: February 2, 2004

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Tidal Wetlands Violations - Criminal and Administrative Penalties**

3 FOR the purpose of authorizing the Department of the Environment to impose
4 certain penalties for violations of tidal wetlands provisions under certain
5 circumstances; establishing certain criteria for consideration in the assessment
6 of the penalties; and generally relating to the Department of the Environment's
7 authority over violations of tidal wetlands provisions.

8 BY repealing
9 Article - Environment
10 Section 16-202(f)
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 2003 Supplement)

13 BY adding to
14 Article - Environment
15 Section 16-502(c)
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 2003 Supplement)

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

20 **Article - Environment**

21 16-202.

22 [(f) Any person who violates any provision of this section is guilty of a
23 misdemeanor. Upon conviction, the person is subject to a fine not exceeding \$1,000
24 with costs imposed in the discretion of the court.]

1 16-502.

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

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

9 (I) UP TO \$1,000 FOR EACH VIOLATION, BUT NOT EXCEEDING
10 \$50,000 TOTAL; AND

11 (II) ASSESSED WITH CONSIDERATION GIVEN TO:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2004.