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

Introduced and read first time: February 2, 2004  
Assigned to: Environmental Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 26, 2004

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CHAPTER \_\_\_\_\_

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~~ altering certain criminal penalties for certain violations of  
7 certain tidal wetlands requirements; renaming the Wetland Compensation  
8 Fund; requiring certain money to be deposited into the Fund; and generally  
9 relating to ~~the Department of the Environment's authority over violations of~~  
10 ~~tidal wetlands provisions.~~

11 BY repealing  
12 Article - Environment  
13 Section 16-202(f)  
14 Annotated Code of Maryland  
15 (1996 Replacement Volume and 2003 Supplement)

16 ~~BY adding to~~  
17 ~~Article - Environment~~  
18 ~~Section 16-502(e)~~  
19 ~~Annotated Code of Maryland~~  
20 ~~(1996 Replacement Volume and 2003 Supplement)~~

21 BY repealing and reenacting, with amendments,  
22 Article - Environment

1 Section 16-205  
2 Annotated Code of Maryland  
3 (1996 Replacement Volume and 2003 Supplement)

4 BY repealing and reenacting, without amendments,  
5 Article - Environment  
6 Section 16-501(a)  
7 Annotated Code of Maryland  
8 (1996 Replacement Volume and 2003 Supplement)

9 BY repealing and reenacting, with amendments,  
10 Article - Natural Resources  
11 Section 8-2102(d)(1)(iii)  
12 Annotated Code of Maryland  
13 (2000 Replacement Volume and 2003 Supplement)

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

16 **Article - Environment**

17 16-202.

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

21 16-205.

22 (a) The Board may require as a condition to issuance of a wetlands license  
23 that compensation be made to the State, of a kind and in an amount deemed  
24 appropriate by the Board.

25 (b) Monetary compensation received by the State in conjunction with a  
26 wetlands license may not be applied to the State annuity bond fund account.

27 (c) (1) There is created a special fund, known as the TIDAL Wetlands  
28 Compensation Fund. [Any monetary compensation paid to the State in conjunction  
29 with a wetlands license shall be credited to the Wetlands Compensation Fund.]

30 (2) THE FOLLOWING MONEY SHALL BE DEPOSITED IN THE TIDAL  
31 WETLANDS COMPENSATION FUND:

32 (I) ANY MONETARY COMPENSATION PAID TO THE STATE IN  
33 CONJUNCTION WITH A WETLANDS LICENSE, INCLUDING COMPENSATION PAID BY AN  
34 APPLICANT INSTEAD OF ENGAGING IN THE CREATION, RESTORATION, OR  
35 ENHANCEMENT OF A TIDAL WETLAND; AND

1 (II) ANY PENALTY IMPOSED BY A COURT IN ACCORDANCE WITH  
 2 THIS TITLE.

3 (d) Funds in the TIDAL Wetlands Compensation Fund may be appropriated  
 4 only for acquisition and conservation of wetland areas by the State, including cost  
 5 sharing assistance to landowners in the management and control of phragmites  
 6 under Title 8, Subtitle 21 of the Natural Resources Article.

7 (e) Funds appropriated in the budget for wetlands acquisition and  
 8 conservation under this section:

9 (1) Shall remain available until expended; and

10 (2) May not be reverted under any other provision of law.

11 16-501.

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

16 ~~16-502.~~

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

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

24 ~~(I) UP TO \$1,000 FOR EACH VIOLATION, BUT NOT EXCEEDING~~  
 25 ~~\$50,000 TOTAL; AND~~

26 ~~(II) ASSESSED WITH CONSIDERATION GIVEN TO:~~

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

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

35 ~~3. THE COST OF CLEANUP AND THE COST OF RESTORATION~~  
 36 ~~OF NATURAL RESOURCES;~~



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