

SENATE BILL 493

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2004 Regular Session  
4r1235  
CF 4r2915

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By: **Senator Astle**

Introduced and read first time: February 6, 2004

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable

Senate action: Adopted

Read second time: March 2, 2004

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Municipal Corporations - Decisions of Port Wardens - Appeals**

3 FOR the purpose of authorizing an aggrieved party to appeal a decision of a board of  
4 port wardens concerning the discharge of the duties of the port wardens to the  
5 circuit court for the appropriate county if authorized by the municipal  
6 corporation by ordinance; and generally relating to appeals from the decisions of  
7 a board of port wardens created by a municipal corporation.

8 BY repealing and reenacting, with amendments,  
9 Article 23A - Corporations - Municipal  
10 Section 2(b)(23A)  
11 Annotated Code of Maryland  
12 (2001 Replacement Volume and 2003 Supplement)

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

15 **Article 23A - Corporations - Municipal**

16 2.

17 (b) In addition to, but not in substitution of, the powers which have been, or  
18 may hereafter be, granted to it, such legislative body also shall have the following  
19 express ordinance-making powers:

20 (23A) The municipal corporation may provide for the creation,  
21 appointment, duties, and powers of a board of port wardens to exercise jurisdiction  
22 within the limits of the municipal corporation.

1 (i) A board of port wardens may regulate the placement, erection,  
2 or construction of structures or other barriers within or on the waters of the  
3 municipality, including but not limited to the issuing of licenses to create or build  
4 wharves or piers and the issuing of permits for mooring piles, floating wharves,  
5 buoys, or anchors, taking into account the present and proposed uses, and the effect of  
6 present and proposed uses on marine life, wildlife, conservation, water pollution,  
7 erosion, navigational hazards, the effect of the proposed use on congestion within the  
8 waters, the effect on other riparian property owners, and the present and projected  
9 needs for any proposed commercial or industrial use. The port wardens shall have the  
10 power to regulate the materials and construction for the aforesaid improvements and  
11 to make certain that any improvements in the waters within the municipality do not  
12 render the navigation too close and confined. This provision in no way intends to  
13 affect or conflict with any zoning power of a municipality.

14 (ii) No person may build any wharf or pier, or carry out any earth or  
15 other material for the purpose of building a wharf or pier, nor shall any persons place  
16 or erect mooring piles, floating wharves, buoys, or anchors without a license or permit  
17 from the port wardens. If any person violates the provisions of this section, or if any  
18 person builds any wharf or pier a greater distance into the waters of the port, or in a  
19 different form, or of different materials than determined and allowed by the wardens,  
20 he is subject to a fine as imposed by the legislative body of the municipal corporation.

21 (iii) In all differences that arise between any aggrieved party and  
22 the port wardens of that municipal corporation concerning the discharge of the duties  
23 of the port wardens, an appeal may be taken to the legislative body of the municipal  
24 corporation OR, IF AUTHORIZED BY THE MUNICIPAL CORPORATION BY ORDINANCE,  
25 TO THE CIRCUIT COURT FOR THE APPROPRIATE COUNTY.

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