

SB0408/288770/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 408
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, after “prosecution” insert “seeking a criminal penalty or civil fine”; in line 8, after “offense” insert “; providing a certain exception to the imposition of a criminal penalty or civil fine under certain circumstances; and generally relating to the prosecution of offenses that occur in the Chesapeake Bay Critical Area”; and after line 13, insert:

“BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 8–1815

Annotated Code of Maryland

(2000 Replacement Volume and 2006 Supplement)”.

AMENDMENT NO. 2

On page 2, in line 12, after “PROSECUTION” insert “SEEKING A CRIMINAL PENALTY OR CIVIL FINE”; and after line 14, insert:

“Article – Natural Resources

8–1815.

(a) (1) Violators of the provisions of programs approved or adopted by the Commission shall be subject to prosecution or suit by local authorities, who may invoke the sanctions and remedies afforded by State or local law.

(2) A local authority may request:

(Over)

(i) Assistance from the Commission in an enforcement action;
or

(ii) That the chairman refer an enforcement action to the Attorney General.

(b) Whenever the chairman has reason to believe that a local jurisdiction is failing to enforce the requirements of a program applicable to a particular development, the chairman shall serve notice upon the local enforcement authorities. If within 30 days after service of the notice, the local authorities have failed to initiate an action to remedy or punish the violation, the chairman may refer the matter to the Attorney General.

(c) Upon referral of an alleged violation under subsection (a) or (b) of this section, the Attorney General may invoke any sanction or remedy available to local authorities, in any court of competent jurisdiction in which the local authorities would be authorized to prosecute or sue the violator.

(D) NOTWITHSTANDING SUBSECTION (A), (B), OR (C) OF THIS SECTION, THIS SECTION MAY NOT BE CONSTRUED TO PERMIT THE IMPOSITION OF A CRIMINAL PENALTY OR CIVIL FINE ON AN INNOCENT PURCHASER OF THE LAND ON WHICH AN ALLEGED VIOLATION OCCURRED.

[(d)] (E) In addition to any other sanction or remedy available, the Attorney General may bring an action in equity to compel compliance or restrain noncompliance with the requirements of approved project plans, and to compel restoration of lands or structures to their condition prior to any modification which was done in violation of approved project plans.

[(e)] (F) Notwithstanding any other provision of this section, whenever a development in the Critical Area is proceeding in violation of approved project plans and threatens to immediately and irreparably degrade the quality of tidal waters or

fish, wildlife, or plant habitat, the Attorney General, upon request of the chairman, may bring an action to restrain the violation and, as appropriate, to compel restoration of any land or water areas affected by the development.”.