

HOUSE BILL 1193

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8lr2680
CF SB 590

By: **Delegates McIntosh and Hucker**

Introduced and read first time: February 8, 2008

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 2008

CHAPTER _____

1 AN ACT concerning

2 **Environment – Statute of Limitations**

3 FOR the purpose of altering the statute of limitations for prosecution of and suits for
4 certain violations of certain laws relating to the environment; declaring the
5 intent of the General Assembly; providing for the application of this Act; and
6 generally relating to laws relating to the environment.

7 BY repealing and reenacting, with amendments,
8 Article – Courts and Judicial Proceedings
9 Section 5–106(a) and 5–107
10 Annotated Code of Maryland
11 (2006 Replacement Volume and 2007 Supplement)

12 BY repealing
13 Article – Courts and Judicial Proceedings
14 Section 5–106(n)
15 Annotated Code of Maryland
16 (2006 Replacement Volume and 2007 Supplement)

17 BY adding to
18 Article – Environment
19 Section 1–303
20 Annotated Code of Maryland
21 (2007 Replacement Volume and 2007 Supplement)

22 BY repealing

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Environment
 2 Section 2–610.2, 8–509.1, and 9–343.1
 3 Annotated Code of Maryland
 4 (2007 Replacement Volume and 2007 Supplement)

5 BY renumbering
 6 Article – Courts and Judicial Proceedings
 7 Section 5–106(o) through (bb), respectively
 8 to be Section 5–106(n) through (aa), respectively
 9 Annotated Code of Maryland
 10 (2006 Replacement Volume and 2007 Supplement)

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

13 **Article – Courts and Judicial Proceedings**

14 5–106.

15 (a) Except as provided by this section **AND § 1–303 OF THE ENVIRONMENT**
 16 **ARTICLE**, a prosecution for a misdemeanor shall be instituted within 1 year after the
 17 offense was committed.

18 [(n) A prosecution for an offense of the controlled hazardous substance law
 19 under § 7–265(b) of the Environment Article shall be instituted within 2 years after
 20 commission of the offense.]

21 5–107.

22 Except as provided in § 5–106 of this subtitle **AND § 1–303 OF THE**
 23 **ENVIRONMENT ARTICLE**, a prosecution or suit for a fine, penalty, or forfeiture shall
 24 be instituted within one year after the offense was committed.

25 **Article – Environment**

26 **1–303.**

27 **A CRIMINAL PROSECUTION OR SUIT FOR A CIVIL PENALTY FOR VIOLATION**
 28 **OF ANY PROVISION OF THIS ARTICLE OR ANY RULE, REGULATION, ORDER, OR**
 29 **PERMIT ADOPTED OR ISSUED UNDER THIS ARTICLE, SHALL BE INSTITUTED**
 30 **WITHIN 3 YEARS AFTER THE DATE THE DEPARTMENT KNEW OR REASONABLY**
 31 **SHOULD HAVE KNOWN OF THE VIOLATION.**

32 [2–610.2.

1 A criminal prosecution for a violation brought under § 2–609.1 of this subtitle,
2 or a civil action to collect a civil penalty for a violation brought under § 2–610 of this
3 subtitle, shall be instituted within 3 years after the violation was committed.]

4 [8–509.1.

5 A criminal prosecution or a civil action to collect a civil penalty for a violation
6 brought under § 8–509 of this subtitle shall be instituted within 3 years after the
7 violation was committed.]

8 [9–343.1.

9 A criminal prosecution or suit for a civil penalty for violation of any provision of
10 this subtitle or any rule, regulation, order, or permit adopted or issued under this
11 subtitle, shall be instituted within 3 years after the violation was committed.]

12 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5–106(o)
13 through (bb), respectively, of Article – Courts and Judicial Proceedings of the
14 Annotated Code of Maryland be renumbered to be Section(s) 5–106(n) through (aa),
15 respectively.

16 SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the
17 General Assembly that this Act provide consistency and certainty among the regulated
18 community regarding the statute of limitations for criminal prosecution or civil suit for
19 penalty for specified violations of environmental law.

20 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be
21 construed to apply only prospectively and may not be applied or interpreted to have
22 any effect on or application to any violation of any provision of the Environment
23 Article or any rule, regulation, order, or permit adopted or issued under the
24 Environment Article before the effective date of this Act.

25 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take
26 effect October 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.