

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1193

(Delegates McIntosh and Hucker)

Environmental Matters

Judicial Proceedings

Environment - Statute of Limitations

This bill establishes a three-year statute of limitations for a criminal prosecution or suit for a civil penalty with respect to a violation of any provision of the Environment Article or any rule, regulation, order, or permit adopted or issued under that Article. The bill states that the intent of the General Assembly is to provide consistency and certainty among the regulated community regarding the statute of limitations for such actions.

The bill applies prospectively only.

Fiscal Summary

State Effect: The extent to which the bill will result in additional violators being prosecuted or sued over time is unknown; however, it is not anticipated to significantly affect State finances or operations.

Local Effect: The extent to which the bill will result in additional violators being prosecuted or sued over time is unknown; however, it is not anticipated to significantly affect local finances or operations.

Small Business Effect: None.

Analysis

Current Law: A prosecution for an offense of the controlled hazardous substance law must be instituted within two years of the offense being committed. A criminal prosecution or a civil action to collect a civil penalty for a violation of ambient air quality

and radiation provisions must be instituted within three years of the offense being committed. The statute of limitations with respect to bringing a criminal prosecution or suit for a civil penalty with respect to a violation of the State's water pollution control laws is also three years. The statute of limitations relating to other environmental violations is generally one year.

Background: Extending the statute of limitations for most environmental violations could improve the State's ability to successfully prosecute or sue violators where delayed discovery of violations would prevent a court action from being instituted under current law.

The Maryland Department of the Environment was unable to provide any information regarding the number of cases that are currently time-barred. The Office of the Attorney General advises that in the past year there have been at least a dozen criminal cases which have been time-barred.

Additional Information

Prior Introductions: None.

Cross File: SB 590 (Senator Pinsky, *et al.*) – Judicial Proceedings.

Information Source(s): Office of the Attorney General, State's Attorneys' Association, Judiciary (Administrative Office of the Courts), Maryland Department of the Environment, Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2008
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