

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 420

(Delegate Love, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Environment - Limitation of Actions - Political Subdivisions

This bill extends the three-year Statute of Limitations in place for the Maryland Department of the Environment (MDE) on civil suits for violations under the Environment Article to local governments. Thus, a local government must institute an action for which it has authority under the Environmental Article within three years from the date that it knew or should have known of the violation.

This bill applies prospectively only.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

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

Small Business Effect: None.

Analysis

Current Law: A criminal prosecution or suit for a civil penalty for violation of any provision of the Environment Article, or any rule, regulation, order, or permit adopted or issued under the Environment Article, must be instituted within three years of the date that MDE knew or reasonably should have known of the violation.

The Secretary of the Environment may delegate duties, powers, and functions to a county health officer or other county official authorized to administer and enforce environmental laws.

Background: Chapter 194 of 2008 established an extended statute of limitations for violations of most environmental violations in order to 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. Previously, the statute of limitations had been:

- two years for an offense of the controlled hazardous substance law;
- three years for an offense of the air quality laws within Title 2 of the Environment Article;
- three years for an offense of the radiation laws within Title 8 of the Environment Article; and
- three years for an offense of the water pollution control laws within Title 9, Subtitle 3 of the Environment Article.

The general statute of limitations in the Courts and Judicial Proceedings Article for prosecution of a misdemeanor is one year.

Local Fiscal Effect: The workload for local governments with authority to enforce the provisions of the Environment Article may change minimally. In a local jurisdiction with a statute of limitations that is less than three years, an extension of the limitations period to three years may increase the number of enforcement actions. Jurisdictions with limitation periods of three or more years may have no change or a slight decrease in the number of enforcement actions able to be prosecuted. In addition, because the limitations period does not begin to run until the local government with authority to bring an action discovers the violation, the local government's ability to enforce the Environment Article will not be distorted by MDE enforcement activities.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Caroline and Montgomery counties; Baltimore City; Maryland Department of the Environment; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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Analysis by: Evan M. Isaacson

Direct Inquiries to:
(410) 946-5510
(301) 970-5510