

HOUSE BILL 983

M1
HB 1259/11 – ENV

2lr1723
CF SB 483

By: **Delegates Frush and Hubbard**

Introduced and read first time: February 10, 2012

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake and Atlantic Coastal Bays Critical Area – Prohibition – Junk and**
3 **Scrap Metal Facilities**

4 FOR the purpose of requiring certain local critical area programs to, with a certain
5 exception, prohibit the location of junkyards, scrap storage yards, and other
6 scrap metal facilities in the Chesapeake and Atlantic Coastal Bays Critical
7 Area; providing for the application of this Act; prohibiting a certain application
8 of this Act; and generally relating to a prohibition on the location of junkyards,
9 scrap storage yards, and other scrap metal facilities in the Chesapeake and
10 Atlantic Coastal Bays Critical Area.

11 BY repealing and reenacting, with amendments,
12 Article – Natural Resources
13 Section 8–1808(c)(1)
14 Annotated Code of Maryland
15 (2007 Replacement Volume and 2011 Supplement)

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

18 **Article – Natural Resources**

19 8–1808.

20 (c) (1) (i) Notwithstanding any provision in a local law or ordinance,
21 or the lack of a provision in a local law or ordinance, all of the requirements of this
22 subtitle shall apply to, and be applied by, a local jurisdiction as minimum standards
23 for a program sufficient to meet the goals of the Critical Area Program.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) With the approval of the Commission, a local jurisdiction
2 may establish procedures for the granting of an administrative variance.

3 (iii) At a minimum, a program shall contain all of the following
4 elements, including:

5 1. A map designating the critical area in a local
6 jurisdiction;

7 2. A comprehensive zoning map for the critical area;

8 3. As necessary, new or amended provisions of the
9 jurisdiction's:

10 A. Subdivision regulations;

11 B. Comprehensive or master plan;

12 C. Zoning ordinances or regulations;

13 D. Provisions relating to enforcement; and

14 E. Provisions as appropriate relating to grandfathering
15 of development at the time the program is adopted or approved by the Commission,
16 including provisions for bringing lands into conformance with the Program as required
17 under item 12 of this subparagraph;

18 4. Provisions requiring that:

19 A. Project approvals shall be based on findings that
20 projects are consistent with the standards stated in subsection (b) of this section; and

21 B. The Commission shall receive written notice of local
22 decisions regarding project approvals or denials in accordance with local procedures
23 approved by the Commission;

24 5. Provisions to limit lot coverage and to require or
25 encourage cluster development, where necessary or appropriate;

26 6. Establishment of buffer areas along shorelines within
27 which agriculture will be permitted only if best management practices are used,
28 provided that structures or any other use of land which is necessary for adjacent
29 agriculture shall also be permitted in any buffer area;

30 7. Requirements for minimum setbacks for structures
31 and septic fields along shorelines, including the establishment of a minimum buffer

1 landward from the mean high water line of tidal waters, tributary streams, and tidal
2 wetlands;

3 8. Designation of shoreline areas, if any, that are
4 suitable for parks, hiking, biking, wildlife refuges, scenic drives, public access or
5 assembly, and water-related recreation such as boat slips, piers, and beaches;

6 9. Designation of shoreline areas, if any, that are
7 suitable for ports, marinas, and industries that use water for transportation or derive
8 economic benefits from shore access;

9 10. Provisions requiring that all harvesting of timber in
10 the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area be in
11 accordance with plans approved by the district forestry board;

12 11. Provisions for reasonable accommodations in policies
13 or procedures when the accommodations are necessary to avoid discrimination on the
14 basis of physical disability, including provisions that authorize a local jurisdiction to
15 require removal of a structure that was installed or built to accommodate a physical
16 disability and require restoration when the accommodation permitted by this
17 paragraph is no longer necessary;

18 12. Procedures, including consolidation or reconfiguration
19 of lots, that shall be approved by the Commission and assure that the following lots
20 and lands are brought into conformance with the Program to the extent possible:

21 A. In the Chesapeake Bay Critical Area, any legal parcel
22 of land, not being part of a recorded or approved subdivision, that was recorded as of
23 December 1, 1985;

24 B. In the Chesapeake Bay Critical Area, land that was
25 subdivided into recorded legally buildable lots, where the subdivision received the
26 local jurisdiction's final approval before June 1, 1984;

27 C. In the Atlantic Coastal Bays Critical Area, any legal
28 parcel of land, not being part of a recorded or approved subdivision, that was recorded
29 as of June 1, 2002; and

30 D. In the Atlantic Coastal Bays Critical Area, land that
31 was subdivided into recorded legally buildable lots, where the subdivision received the
32 local jurisdiction's final approval before June 1, 2002;

33 13. Except as provided in subsection (d) of this section,
34 provisions for granting a variance to the local jurisdiction's critical area program, in
35 accordance with regulations adopted by the Commission concerning variances set forth
36 in COMAR 27.01.11;

1 14. Penalty provisions establishing that, in addition to
2 any other penalty applicable under State or local law, each person who violates a
3 provision of this subtitle or of a program, including a contractor, property owner, or
4 any other person who committed, assisted, authorized, or participated in the violation
5 is subject to a fine not exceeding \$10,000; [and]

6 15. Administrative enforcement procedures in accordance
7 with due process principles, including notice and an opportunity to be heard, and
8 establishing that:

9 A. Each violation of this subtitle or of a regulation, rule,
10 order, program, or other requirement adopted under the authority of this subtitle
11 constitutes a separate offense;

12 B. Each calendar day that a violation continues
13 constitutes a separate offense;

14 C. For each offense, a person shall be subject to separate
15 fines, orders, sanctions, and other penalties;

16 D. Civil penalties for continuing violations shall accrue
17 without a requirement for an additional assessment, notice, or opportunity for hearing
18 for each separate offense;

19 E. On consideration of all the factors included under this
20 subsection and any other factors in the local jurisdiction's approved program, the local
21 jurisdiction shall impose the amount of the penalty;

22 F. Satisfaction of all conditions specified under
23 paragraph (4) of this subsection shall be a condition precedent to the issuance of any
24 permit, approval, variance, or special exception for the affected property; and

25 G. Unless an extension of time is appropriate because of
26 adverse planting conditions, within 90 days of the issuance of a permit, approval,
27 variance, or special exception for the affected property, any additional mitigation
28 required as a condition of approval for the permit, approval, variance, or special
29 exception shall be completed; **AND**

30 **16. EXCEPT FOR THE TRANSFER OF PROCESSED**
31 **METAL TO OR FROM A DOCKED VESSEL, A PROHIBITION ON THE LOCATION OF A**
32 **JUNKYARD, SCRAP STORAGE YARD, OR OTHER SCRAP METAL FACILITY IN THE**
33 **CRITICAL AREA.**

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
35 construed to apply only prospectively and may not be applied or interpreted to have
36 any effect on or application to a permit that was issued before the effective date of this

1 Act for the location of a junkyard, scrap storage yard, or other scrap metal facility in
2 the Chesapeake and Atlantic Coastal Bays Critical Area.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be
4 applied or interpreted to have any effect on or application to any metal temporarily
5 stored on the property of a steel mill that has the capacity to produce at least
6 1,000,000 tons of steel in the State per calendar year.

7 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2012.