

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

Committee Report: Favorable

House action: Adopted

Read second time: March 21, 2012

CHAPTER _____

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.

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

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

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

9 1. A map designating the critical area in a local
10 jurisdiction;

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

12 3. As necessary, new or amended provisions of the
13 jurisdiction's:

14 A. Subdivision regulations;

15 B. Comprehensive or master plan;

16 C. Zoning ordinances or regulations;

17 D. Provisions relating to enforcement; and

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

22 4. Provisions requiring that:

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

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

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

30 6. Establishment of buffer areas along shorelines within
31 which agriculture will be permitted only if best management practices are used,

1 provided that structures or any other use of land which is necessary for adjacent
2 agriculture shall also be permitted in any buffer area;

3 7. Requirements for minimum setbacks for structures
4 and septic fields along shorelines, including the establishment of a minimum buffer
5 landward from the mean high water line of tidal waters, tributary streams, and tidal
6 wetlands;

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

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

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

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

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

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

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

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

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

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

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

10 15. Administrative enforcement procedures in accordance
11 with due process principles, including notice and an opportunity to be heard, and
12 establishing that:

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

16 B. Each calendar day that a violation continues
17 constitutes a separate offense;

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

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

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

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

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

34 **16. EXCEPT FOR THE TRANSFER OF PROCESSED**
35 **METAL TO OR FROM A DOCKED VESSEL, A PROHIBITION ON THE LOCATION OF A**

1 **JUNKYARD, SCRAP STORAGE YARD, OR OTHER SCRAP METAL FACILITY IN THE**
2 **CRITICAL AREA.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
4 construed to apply only prospectively and may not be applied or interpreted to have
5 any effect on or application to a permit that was issued before the effective date of this
6 Act for the location of a junkyard, scrap storage yard, or other scrap metal facility in
7 the Chesapeake and Atlantic Coastal Bays Critical Area.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be
9 applied or interpreted to have any effect on or application to any metal temporarily
10 stored on the property of a steel mill that has the capacity to produce at least
11 1,000,000 tons of steel in the State per calendar year.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.