

# SENATE BILL 483

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CF HB 983

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By: **Senators Benson, Miller, Frosh, Montgomery, and Pinsky**

Introduced and read first time: February 2, 2012

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 29, 2012

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## 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~~ exceptions, prohibit the location of junkyards, scrap storage yards,  
6 ~~and~~ other scrap metal facilities, and certain machinery in the Chesapeake and  
7 Atlantic Coastal Bays Critical Area; requiring certain local critical area  
8 programs to require that certain machinery that is used for a certain purpose be  
9 removed from the Critical Area on or before a certain date; providing for the  
10 application of certain provisions of this Act; prohibiting a certain application of  
11 this Act; and generally relating to a prohibition on the location of junkyards,  
12 scrap storage yards, ~~and~~ other scrap metal facilities, and certain machinery in  
13 the Chesapeake and Atlantic Coastal Bays Critical Area.

14 BY repealing and reenacting, with amendments,  
15 Article – Natural Resources  
16 Section 8–1808(c)(1)  
17 Annotated Code of Maryland  
18 (2007 Replacement Volume and 2011 Supplement)

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

21 **Article – Natural Resources**

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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 8-1808.

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

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

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

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

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

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

15 A. Subdivision regulations;

16 B. Comprehensive or master plan;

17 C. Zoning ordinances or regulations;

18 D. Provisions relating to enforcement; and

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

23 4. Provisions requiring that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19                   B.     Each calendar day that a violation continues  
20 constitutes a separate offense;

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

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

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

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

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

1                   **16. EXCEPT FOR THE TRANSFER OF PROCESSED**  
 2 **METAL TO OR FROM A DOCKED VESSEL OR THE STORAGE OF PROCESSED METAL**  
 3 **FOR THE SOLE PURPOSE OF TRANSFER TO A DOCKED VESSEL, A PROHIBITION**  
 4 **ON THE LOCATION OF A JUNKYARD, SCRAP STORAGE YARD, OR OTHER SCRAP**  
 5 **METAL FACILITY IN THE CRITICAL AREA;**

6                   **17. A PROHIBITION ON ANY MACHINERY THAT IS**  
 7 **USED FOR THE PURPOSE OF CONVERTING SCRAP METAL INTO PROCESSED**  
 8 **METAL IN THE CRITICAL AREA; AND**

9                   **18. A REQUIREMENT THAT ANY MACHINERY THAT IS**  
 10 **UTILIZED FOR THE PURPOSE OF CONVERTING SCRAP METAL INTO PROCESSED**  
 11 **METAL BE REMOVED FROM THE CRITICAL AREA ON OR BEFORE JANUARY 1,**  
 12 **2013.**

13           SECTION 2. AND BE IT FURTHER ENACTED, That § 8–1808(c)(1)16 and 17  
 14 of the Natural Resources Article, as enacted by Section 1 of this Act, shall be construed  
 15 to apply only prospectively and may not be applied to interpreted to have any effect on  
 16 or application to a permit that was issued before the effective date of this Act for the  
 17 location of a junkyard, scrap storage yard, or other scrap metal facility in the  
 18 Chesapeake and Atlantic Coastal Bays Critical Area.

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

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.