

SENATE BILL 877

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2lr2852

By: ~~Senator Glassman~~ Senators Glassman and Simonaire

Introduced and read first time: February 3, 2012

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 2012

CHAPTER _____

1 AN ACT concerning

2 **Environment – Water Pollution Control – Reporting and Penalties**

3 FOR the purpose of requiring the Department of the Environment to publish annually
4 on its Web site the total amount of sewage overflow into the Chesapeake Bay
5 and its tributaries and the total amount of fines collected by the Department as
6 a result of sewage overflows into the Chesapeake Bay and its tributaries;
7 altering certain civil and administrative penalties for violations of certain
8 provisions relating to water pollution control; and generally relating to water
9 pollution control.

10 BY adding to

11 Article – Environment

12 Section 9–317

13 Annotated Code of Maryland

14 (2007 Replacement Volume and 2011 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Environment

17 Section 9–342

18 Annotated Code of Maryland

19 (2007 Replacement Volume and 2011 Supplement)

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

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

Article – Environment

2 9–317.

3 THE DEPARTMENT SHALL PUBLISH ANNUALLY ON ITS WEB SITE THE
4 TOTAL AMOUNT OF:

5 (1) SEWAGE OVERFLOW, IN GALLONS, FROM STATE SEWERAGE
6 SYSTEMS INTO THE CHESAPEAKE BAY AND ITS TRIBUTARIES DURING THE
7 PREVIOUS YEAR; AND

8 (2) FINES COLLECTED AS A RESULT OF SEWAGE OVERFLOWS
9 INTO THE CHESAPEAKE BAY AND ITS TRIBUTARIES DURING THE PREVIOUS
10 YEAR.

11 9–342.

12 (a) In addition to being subject to an injunctive action under this subtitle, a
13 person who violates any provision of this subtitle or of any rule, regulation, order, or
14 permit adopted or issued under this subtitle is liable to a civil penalty not exceeding
15 ~~[\$10,000]~~ **\$20,000**, to be collected in a civil action brought by the Department. Each
16 day a violation occurs is a separate violation under this subsection.

17 (b) (1) In addition to any other remedies available at law or in equity and
18 after an opportunity for a hearing which may be waived in writing by the person
19 accused of a violation, the Department may impose a penalty for violation of any
20 provision of this subtitle or any rule, regulation, order, or permit adopted or issued
21 under this subtitle.

22 (2) The penalty imposed on a person under this subsection shall be:

23 (i) Up to ~~[\$5,000]~~ **\$10,000** for each violation, but not exceeding
24 ~~[\$50,000]~~ **\$100,000** total; and

25 (ii) Assessed with consideration given to:

26 1. The willfulness of the violation, the extent to which
27 the existence of the violation was known to but uncorrected by the violator, and the
28 extent to which the violator exercised reasonable care;

29 2. Any actual harm to the environment or to human
30 health, including injury to or impairment of the use of the waters of this State or the
31 natural resources of this State;

32 3. The cost of cleanup and the cost of restoration of
33 natural resources;

1 4. The nature and degree of injury to or interference
2 with general welfare, health, and property;

3 5. The extent to which the location of the violation,
4 including location near waters of this State or areas of human population, creates the
5 potential for harm to the environment or to human health or safety;

6 6. The available technology and economic
7 reasonableness of controlling, reducing, or eliminating the violation;

8 7. The degree of hazard posed by the particular
9 pollutant or pollutants involved; and

10 8. The extent to which the current violation is part of a
11 recurrent pattern of the same or similar type of violation committed by the violator.

12 (3) Each day a violation occurs is a separate violation under this
13 subsection.

14 (4) Any penalty imposed under this subsection is payable to this State
15 and collectible in any manner provided at law for the collection of debts.

16 (5) If any person who is liable to pay a penalty imposed under this
17 subsection fails to pay it after demand, the amount, together with interest and any
18 costs that may accrue, shall be:

19 (i) A lien in favor of this State on any property, real or
20 personal, of the person; and

21 (ii) Recorded in the office of the clerk of court for the county in
22 which the property is located.

23 (6) Any penalty collected under this subsection shall be placed in a
24 special fund to be used for monitoring and surveillance by the Department to assure
25 and maintain an adequate record of any violations, including discharge of waste
26 material and other pollutants into the waters of this State or into the environment.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2012.