

Chapter 360

(House Bill 190)

AN ACT concerning

Environment – Noise Control

FOR the purpose of altering certain findings by the General Assembly; requiring the Department of the Environment to revise certain noise standards and sound level limits under certain circumstances; repealing requirements that the Department develop a certain plan, coordinate certain programs, and keep certain records; repealing a requirement that State agencies consult with the Department under certain circumstances; authorizing certain political subdivisions, instead of the Department, to make certain determinations; repealing certain requirements for political subdivisions related to noise control and sound level limits; repealing the Environmental Noise Advisory Council in the Department; repealing the Interagency Noise Control Committee; requiring certain political subdivisions to make certain considerations in adopting certain noise standards, sound level limits, and noise control rules; repealing a requirement that the Department adopt certain regulations jointly with the Department of Transportation; repealing requirements for the adoption and enforcement of noise standards, sound level limits, or noise control rules and regulations by the Department or other units; repealing the Department's authority to enforce certain sound level limits and noise control rules and regulations; authorizing a political subdivision to enforce certain sound level limits and noise control rules and regulations; repealing certain provisions authorizing the Secretary of the Environment to delegate certain enforcement in Harford County under certain circumstances; repealing requirements that the Department use certain facilities and services under certain circumstances; repealing the Department's authority to assist in certain noise control efforts; authorizing certain political subdivisions to make a certain investigation, survey, test, or assessment under certain circumstances; altering the boundaries for certain sound level limits; authorizing a political subdivision, instead of the Department, to take certain enforcement actions under certain circumstances; altering certain penalty provisions; altering a certain definition; and generally relating to the adoption and enforcement of noise control standards.

BY repealing and reenacting, with amendments,

Article – Environment

Section 3–101 through 3–103, 3–105, 3–401, 3–403 through 3–407, and 3–501

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,
 Article – Environment
 Section 3–104, 3–408, 3–502, and 3–503
 Annotated Code of Maryland
 (2007 Replacement Volume and 2011 Supplement)

BY repealing
 Article – Environment
 Section 3–201 through 3–205 and the subtitle “Subtitle 2. Environmental Noise
 Advisory Council”, 3–301 through 3–304 and the subtitle “Subtitle 3.
 Interagency Noise Control Committee”, 3–402, and 3–504 through 3–506
 Annotated Code of Maryland
 (2007 Replacement Volume and 2011 Supplement)

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

Article – Environment

3–101.

- (a) In this title the following words have the meanings indicated.
- (b) [“Committee” means the Interagency Noise Control Committee.
- (c) “Council” means the Environmental Noise Advisory Council.

(d) “Environmental noise standard” means a goal for the limitation of noise, from all sources, that exists in a defined area under specified conditions.

[(e)] (C) (1) “Noise” means the intensity, frequency, duration, and character of sound.

(2) “Noise” includes sound and vibration of subaudible frequencies.

[(f)] (D) “Political subdivision” means a county or municipal corporation of this State.

[(g)] (E) “Sound level limit” means the maximum allowable noise emission from a noise source in a defined area under specified conditions.

[(h)] (F) “Source” means any person or property from which sound originates.

3–102.

[(a)] The General Assembly finds:

(1) That the people of this State have a right to an environment that is free from any noise that:

- (i) May jeopardize their health, general welfare, or property; or
- (ii) Degrades the quality of their lives; **AND**

(2) That there is a substantial body of knowledge about the adverse effects of excessive noise on the public health, the general welfare, and property, and that this knowledge should be used to develop environmental noise standards that will protect the public health, the general welfare, and property with an adequate margin of safety]; and

(3) That it is essential to have coordination and statewide leadership of the noise control activities of the many State agencies and the county and local governments.

(b) It is the intent of the General Assembly that the Department shall:

(1) Seek appropriate resources to ensure enforcement of the sound level limits and noise control rules and regulations adopted under this title; and

(2) Work cooperatively with the appropriate agencies of political subdivisions in ensuring the implementation and enforcement of the requirements of this title].

3-103.

[(a)] Except as otherwise provided by law, [and in addition to the duties set forth elsewhere in this title,] the Department shall[:

(1) Develop a plan for attaining and maintaining the environmental noise standards that are adopted;

(2) Coordinate all State agency programs on noise control; and

(3) Keep a record of each sound level limit that is adopted by any political subdivision or agency of this State.

(b) Each State agency shall consult with the Department before adopting any sound level limit or noise control rule or regulation] **REVISE THE STATE'S ENVIRONMENTAL NOISE STANDARDS AND SOUND LEVEL LIMITS AS NECESSARY OR APPROPRIATE.**

3-104.

The Department may obtain any federal or other funds that are available to this State for purposes that are within the scope of this title.

3-105.

(a) (1) Except as provided in this section, this title does not limit the power of a political subdivision to adopt noise control ordinances, rules, or regulations.

(2) A political subdivision may not adopt any noise control ordinance, rule, or regulation that is less stringent than the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title.

(3) (i) A political subdivision may not adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that is chartered and in operation as of January 1, 2001.

(ii) This paragraph does not apply in Baltimore City or Allegany, Anne Arundel, Calvert, Charles, Garrett, Howard, Montgomery, St. Mary's, and Washington counties.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, Allegany County, Anne Arundel County, Garrett County, Washington County, or a political subdivision of Allegany County, Anne Arundel County, Garrett County, or Washington County may not adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that is chartered and in operation as of January 1, 2005.

(ii) 1. Subject to the provisions of subparagraph 2 of this subparagraph, Allegany County, Anne Arundel County, Garrett County, Washington County, or a political subdivision of Allegany County, Anne Arundel County, Garrett County, or Washington County may adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that the [Department] **RESPONSIBLE POLITICAL SUBDIVISION** determines is not in compliance as of January 1, 2005 with environmental noise standards, sound level limits, or noise control rules or regulations adopted under this title.

2. A noise control ordinance, rule, or regulation adopted under subparagraph 1 of this subparagraph shall allow trapshooting, skeetshooting, and other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that the [Department] **RESPONSIBLE POLITICAL SUBDIVISION** determines has become compliant with environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title.

(5) Carroll County or a political subdivision of Carroll County may not enforce any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, against a public school in Carroll County that violates the ordinance, rule, or regulation between the hours of 8 a.m. and 9:30 p.m.

(b) Each political subdivision **IS ENCOURAGED TO CONSIDER:**

(1) [Shall send to the Department a copy of each noise control ordinance, rule, or regulation that it adopts;

(2) Shall identify on each zoning map, comprehensive plan, or other appropriate document the sound level limits that are adopted under Subtitle 4 of this title; and

(3) Is encouraged to consider:

(i) Compliance with State or local noise standards before acting on any proposed variance requests or changes in zoning classifications; and

[(ii) (2) Whether the permit or activity will be in compliance with local and State noise control standards, prior to the issuance of a building, activity permit, or similar authorizing document.

[Subtitle 2. Environmental Noise Advisory Council.]

[3-201.

There is an Environmental Noise Advisory Council in the Department.]

[3-202.

(a) (1) The Council consists of 11 members:

(i) 9 voting members appointed by the Secretary; and

(ii) 2 ex officio members.

(2) Of the 11 Council members:

(i) 1 shall be appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Acoustical Society of America and the Institute of Noise Control Engineering;

(ii) 1 shall be a physician who specializes in hearing, appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Medical and Chirurgical Faculty of the State of Maryland;

(iii) 1 shall be appointed from a list of at least 3 qualified individuals submitted to the Secretary by the Chancellor of the University System of Maryland;

(iv) 2 shall be appointed from the public at large;

(v) 1 shall be appointed from a list of at least 3 individuals submitted to the Secretary by the Maryland Municipal League;

(vi) 1 shall be appointed from a list of at least 3 individuals submitted to the Secretary by the Maryland Association of Counties;

(vii) 2 shall be appointed from a list of at least 3 individuals submitted to the Secretary by the Maryland Chamber of Commerce;

(viii) 1 ex officio member shall be a member of the Senate of Maryland, appointed by the President of the Senate; and

(ix) 1 ex officio member shall be a member of the House of Delegates, appointed by the Speaker of the House.

(3) In making any appointment to the Council, the Secretary shall consider giving appropriate representation to the various geographical areas of this State.

(b) Each member of the Council shall be a resident of this State.

(c) (1) The term of a member is 5 years.

(2) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(3) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.]

[3-203.

From among the Council members, the Secretary of the Environment shall appoint a chairman, a vice chairman, and a secretary of the Council.]

[3-204.

(a) The Council shall meet at the times and places that the Secretary or the chairman determines.

(b) A member of the Council:

(1) May not receive compensation; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(c) The Department shall provide the Council with secretarial and stenographic assistance.]

[3-205.

(a) Before the Department proposes any changes in the provisions of this title or revisions to the environmental noise regulations, the Department shall:

(1) Submit the proposed revisions to the Council for advice;

(2) Conduct public hearings; and

(3) Prepare or solicit technical input on issues related to the revisions.

(b) Within 60 days after receiving a proposed revision from the Department, the Council shall give the Department its advice on the proposal by recommending:

(1) Adoption;

(2) Rejection; or

(3) Modification.

(c) The Council may provide advice to the Department on any matter relating to noise pollution.]

[Subtitle 3. Interagency Noise Control Committee.]

[3-301.

There is an Interagency Noise Control Committee.]

[3-302.

- (a) The Committee consists of:
- (1) 1 member of the Governor's executive staff, appointed by the Governor; and
 - (2) 1 representative of each of the following departments, appointed by the Secretary of that department:
 - (i) The Department of the Environment;
 - (ii) The State Department of Transportation;
 - (iii) The Department of Natural Resources;
 - (iv) The Department of Planning;
 - (v) The Department of Health and Mental Hygiene;
 - (vi) The Department of Business and Economic Development;
 - (vii) The Department of Labor, Licensing, and Regulation; and
 - (viii) Any other principal department that develops, adopts, or enforces any noise control rule or regulation.
- (b) The member who is appointed by the Secretary of the Environment is chairman of the Committee.]

[3-303.

- (a) The Committee shall meet at least twice a year, at the times and places that it determines.
- (b) A member of the Committee:
- (1) May not receive compensation; but
 - (2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.
- (c) (1) In accordance with the State budget, the Committee may:
- (i) Employ a staff;

- (ii) Employ consultants; and
- (iii) Obtain office facilities.

(2) The Department of the Environment shall provide the Committee with secretarial and stenographic assistance.]

[3-304.

(a) The Committee shall:

(1) Receive reports of progress, problems, and proposed plans for attaining and maintaining State environmental noise standards from each agency that is represented on the Committee;

(2) Evaluate the adequacy of existing and proposed efforts to attain and maintain State environmental noise standards;

(3) Review the relationship of State noise control rules and regulations with other environmental laws, rules, regulations, standards, and programs; and

(4) Recommend new or revised noise control rules, regulations, or legislation.

(b) If the Council requests, the annual report of the Committee shall include a report of the Council.]

3-401.

(a) Except as otherwise provided by law, the Department shall adopt environmental noise standards, sound level limits, and noise control rules and regulations as necessary to protect the public health, the general welfare, and property.

(b) In adopting environmental noise standards, the Department **OR A POLITICAL SUBDIVISION THAT CHOOSES TO ADOPT ENVIRONMENTAL NOISE STANDARDS** shall consider:

(1) Information published by the Administrator of the United States Environmental Protection Agency on the levels of environmental noise that must be attained and maintained in defined areas under various conditions to protect public health and welfare with an adequate margin of safety; and

(2) Scientific information about the volume, frequency, duration, and other characteristics of noise that may harm public health, safety, or general welfare, including:

- (i) Temporary or permanent hearing loss;
- (ii) Interference with sleep, speech communication, work, or other human activities;
- (iii) Adverse physiological responses;
- (iv) Psychological distress;
- (v) Harm to animal life;
- (vi) Devaluation of or damage to property; and
- (vii) Unreasonable interference with the enjoyment of life or property.

(c) (1) In adopting sound level limits and noise control rules and regulations, the Department **OR THE POLITICAL SUBDIVISION** shall consider, among other things:

- (i) The residential, commercial, or industrial nature of the area affected;
- (ii) Zoning;
- (iii) The nature and source of various kinds of noise;
- (iv) The degree of noise reduction that may be attained and maintained using the best available technology;
- (v) Accepted scientific and professional methods for measurement of sound levels; and
- (vi) The cost of compliance with the sound level limits.

(2) The sound level limits adopted under this subsection shall be consistent with the environmental noise standards adopted by the Department.

(3) The sound level limits and noise control rules and regulations adopted under this subsection may not prohibit trapshooting or other target shooting on any range or other property in Frederick County that the Frederick County Department of Planning and Zoning has approved as a place for those sporting events.

(4) The sound level limits and noise control rules and regulations adopted under this subsection shall be as follows for residential heat pumps and air conditioning units:

- (i) Residential heat pumps 75dba.
- (ii) Residential air conditioning units 70dba.

(5) (i) The sound level limits and noise control rules and regulations adopted under this subsection may not prohibit trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. on any range or other property of a shooting sports club that is chartered and in operation as of January 1, 2001.

(ii) This paragraph does not apply in Allegany, Anne Arundel, Baltimore City, Calvert, Charles, Garrett, Howard, Montgomery, St. Mary's, and Washington counties.

(6) (i) Except as provided in subparagraph (ii) of this paragraph, the Department may not adopt sound level limits and noise control rules and regulations under this subsection that prohibit trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. in Allegany County, Anne Arundel County, Garrett County, or Washington County on any range or other property of a shooting sports club that is chartered and in operation as of January 1, 2005.

(ii) 1. Subject to the provisions of subparagraph 2 of this subparagraph, the Department may adopt sound level limits and noise control rules and regulations under this subsection that prohibit trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. in Allegany County, Anne Arundel County, Garrett County, or Washington County on any range or other property of a shooting club that the Department determines is not in compliance as of January 1, 2005 with environmental noise standards, sound level limits, or noise control rules and regulations adopted under this title.

2. A sound level limit or noise control rule or regulation adopted under this subsection shall allow trapshooting, skeetshooting, and other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that the Department determines has become compliant with sound level limits and noise control rules and regulations adopted under this title.

(d) (1) This section does not authorize the Department to adopt environmental noise standards, sound level limits, or noise control rules and regulations that apply to noise from:

- (i) Construction or repair work on public property;
- (ii) Fire or rescue station alerting devices; or
- (iii) In Frederick County or Frederick City:

1. A fair listed in the Maryland Agricultural Fairs and Shows Schedule that is maintained by the Maryland Agricultural Fair Board; or

2. Any other event held on the same grounds as a fair under item 1 of this item.

(2) Noise control rules and regulations that apply to Department of Transportation facilities shall be adopted [jointly] by the Department of Transportation [and the Department of the Environment].

[3-402.

(a) The Department may not adopt any environmental noise standard, sound level limit, or noise control rule or regulation unless the requirements of this section and the Administrative Procedure Act are met.

(b) Before adopting any proposed environmental noise standard, sound level limit, or noise control rule or regulation, the Department shall announce and hold a public hearing on the subject.

(c) (1) At least 60 days before the public hearing, the Department shall publish notice of the hearing in a newspaper of general circulation within the area concerned.

(2) The notice shall state:

- (i) The date, time, and place of the hearing; and
- (ii) The purpose of the hearing.

(d) At least 60 days before the public hearing, the Department shall make the proposed environmental noise standard, sound level limit, or noise control rule or regulation available to the public.

(e) After the public hearing, the Department may adopt the proposed environmental noise standard, sound level limit, or noise control rule or regulation, with or without modification.]

3-403.

(a) [(1) The Department] **A POLITICAL SUBDIVISION MAY** [shall] enforce the sound level limits and noise control rules and regulations adopted under this title.

[(2) In Harford County, the Secretary may delegate enforcement under paragraph (1) of this subsection to the Sheriff of Harford County, except enforcement regarding:

(i) Trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. at a shooting sports club that is chartered and in operation in Harford County;

(ii) Lawful trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 8 p.m.; or

(iii) Lawful hunting.]

(b) [To the maximum extent possible, the Department shall use the facilities and services of appropriate agencies of political subdivisions in its enforcement under this section.

(c) The Department may assist the noise control efforts of any appropriate agency of any political subdivision by giving that agency technical assistance in the form of personnel or equipment.] **A POLITICAL SUBDIVISION THAT ENFORCES A NOISE CONTROL STANDARD ADOPTED UNDER THIS TITLE OR AN ORDINANCE CONCERNING NOISE MAY:**

(1) INVESTIGATE A COMPLAINT CONCERNING NOISE;

(2) INSTITUTE AND CONDUCT A SURVEY AND TESTING PROGRAM CONCERNING NOISE;

(3) TEST OR MAKE ANOTHER DETERMINATION OF THE SOURCE OF A NOISE; AND

(4) ASSESS THE DEGREE OF REQUIRED ABATEMENT OF THE NOISE.

[(d)] **(C)** Each sound level limit shall be applied at the boundary of:

(1) A property; or

(2) A land use category, as determined by the [Department] **RESPONSIBLE POLITICAL SUBDIVISION.**

If [the Department] **A POLITICAL SUBDIVISION** determines that there is a violation of this title or any sound level limit or noise control rule or regulation adopted under this title, [the Department] **THE POLITICAL SUBDIVISION**, after notice to the alleged violator, may issue a corrective order.

3-405.

(a) [The Department] **A POLITICAL SUBDIVISION** may bring an action to enjoin any conduct that is a willful violation of any provision of this title or any rule, regulation, or order adopted or issued under this title.

(b) An action may not be brought under this section unless the person against whom it is brought has been given a reasonable time to comply with the provision that is the basis of the action.

3-406.

(a) A person who willfully violates any provision of this title or any rule, regulation, or order adopted or issued under this title is liable to a civil penalty not exceeding \$10,000, to be collected in a civil action brought by [the Department] **A POLITICAL SUBDIVISION** in the circuit court for any county. Each day a violation continues is a separate violation under this section.

(b) [If the Attorney General concurs, the Secretary] **THE POLITICAL SUBDIVISION** may compromise and settle any claim for a civil penalty under this section.

(c) If, within 1 year after a civil penalty is compromised and settled under subsection (b) of this section, the person against whom the penalty is imposed satisfies the [Secretary] **POLITICAL SUBDIVISION** that the violation has been eliminated or the order has been satisfied, the [Secretary, with the concurrence of the Attorney General,] **POLITICAL SUBDIVISION** may return to the person not more than 75 percent of the penalty paid.

(d) An action under this section is in addition to and not instead of an action for injunctive relief under § 3-405 of this subtitle.

3-407.

[(a)] A person is not subject to action for a violation of a provision of this title or any rule or regulation adopted under this title so long as the person acts in accordance with a plan for compliance that:

(1) The person has submitted to the [Secretary] **POLITICAL SUBDIVISION**; and

(2) The [Secretary] **POLITICAL SUBDIVISION** has approved, with or without amendments.

[(b) The Secretary shall act on any plan for compliance within 90 days after the plan is submitted to the Secretary.]

3-408.

A condition that is caused by an act of God, a strike, a riot, a catastrophe, or a cause over which an alleged violator has no control is not a violation of this title or any rule or regulation adopted under this title.

3-501.

In this subtitle, "unit" means a unit of the State government **OR A POLITICAL SUBDIVISION**.

3-502.

To the fullest extent consistent with its authority under a law that it administers, a unit shall carry out programs that the unit administers to further the policy of the State to provide people with an environment free from noise that:

- (1) May jeopardize health, general welfare, and property; or
- (2) Degrades the quality of life.

3-503.

A unit shall comply with federal, State, and interstate requirements concerning the control of environmental noise if the unit:

- (1) Has jurisdiction over any property or facility; or
- (2) Engages in any activity that results, or may result, in the emission of noise.

[3-504.

A unit that prescribes sound level limits or regulations concerning noise periodically shall:

(1) Take into account the degree of noise reduction achievable through the application of the best available technology and the cost of compliance; and

(2) Consult with the Department in prescribing the limits or regulations.]

[3-505.

A unit that enforces a regulation concerning noise may:

(1) Investigate a complaint concerning noise;

(2) Institute and conduct a survey and testing program concerning noise;

(3) Test or make another determination of the source of a noise; and

(4) Assess the degree of required abatement of the noise.]

[3-506.

A unit that prescribes or enforces a regulation concerning noise shall designate a representative to serve on the Interagency Noise Control Committee.]

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

Approved by the Governor, May 2, 2012.