

# SENATE BILL 289

M3

3lr1556  
CF 3lr1979

---

By: **Senators Simonaire, Ferguson, Glassman, Jennings, Montgomery, Reilly,  
and Young**

Introduced and read first time: January 23, 2013

Assigned to: Education, Health, and Environmental Affairs

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Water Pollution Control – Penalty**

3 FOR the purpose of increasing a certain penalty for certain violations of the water  
4 pollution control law; and generally relating to water pollution control.

5 BY repealing and reenacting, with amendments,  
6 Article – Environment  
7 Section 9–342  
8 Annotated Code of Maryland  
9 (2007 Replacement Volume and 2012 Supplement)

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

12 **Article – Environment**

13 9–342.

14 (a) In addition to being subject to an injunctive action under this subtitle, a  
15 person who violates any provision of this subtitle or of any rule, regulation, order, or  
16 permit adopted or issued under this subtitle is liable to a civil penalty not exceeding  
17 \$10,000, to be collected in a civil action brought by the Department. Each day a  
18 violation occurs is a separate violation under this subsection.

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

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

2                   (i)    Up to ~~[\$5,000]~~ **\$10,000** for each violation, but not exceeding  
3 \$50,000 total; and

4                   (ii)   Assessed with consideration given to:

5                           1.    The willfulness of the violation, the extent to which  
6 the existence of the violation was known to but uncorrected by the violator, and the  
7 extent to which the violator exercised reasonable care;

8                           2.    Any actual harm to the environment or to human  
9 health, including injury to or impairment of the use of the waters of this State or the  
10 natural resources of this State;

11                          3.    The cost of cleanup and the cost of restoration of  
12 natural resources;

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

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

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

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

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

24           (3)    Each day a violation occurs is a separate violation under this  
25 subsection.

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

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

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

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

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

7                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2013.