

SENATE BILL 302

M3
SB 877/12 – EHE

3lr1100

By: **Senators Glassman and Simonaire**
Introduced and read first time: January 23, 2013
Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 11, 2013

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 2012 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 2012 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, 2013.