

Chapter 273

(House Bill 250)

AN ACT concerning

Environment – ~~Water Resources and Wetlands~~ Appropriation or Use of Water and Dam Safety – Enforcement

FOR the purpose of authorizing the Department of the Environment to impose an administrative penalty for certain violations related to the appropriation or use of water and dam safety; repealing a certain limitation on the Department's authority to issue certain orders and send certain notices related to dam safety; ~~authorizing the Department to impose an administrative penalty for certain violations related to wetlands construction, modification, or development~~ requiring the Department to take certain actions before imposing certain civil or administrative penalties; requiring certain administrative penalties to be paid into the Maryland Clean Water Fund; and generally relating to the enforcement authority of the Department of the Environment.

BY repealing and reenacting, with amendments,
 Article – Environment
 Section 5–514 through 5–516
 Annotated Code of Maryland
 (2013 Replacement Volume and 2025 Supplement)

BY repealing and reenacting, without amendments,
 Article – Environment
 Section 9–320(a) and (c)
 Annotated Code of Maryland
 (2014 Replacement Volume and 2025 Supplement)

BY repealing and reenacting, with amendments,
 Article – Environment
 Section 9–320(b) ~~and 16–502~~
 Annotated Code of Maryland
 (2014 Replacement Volume and 2025 Supplement)

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

Article – Environment

5–514.

(a) (1) In addition to being subject to an injunctive action under this subtitle, a person who violates any provision of this subtitle or any regulation, order, or permit

adopted or issued under this subtitle is liable for a civil penalty not exceeding \$10,000 per violation to be collected in a civil action brought by the Department.

(2) Each day a violation occurs or continues is a separate violation under this subsection.

(3) (i) Before bringing a civil action against a local government under this subsection, the Department shall meet and consult with the local government to seek an alternative resolution to the contested issue.

(ii) Prior consultation by the Department with the local government shall constitute compliance with this subsection.

(b) A person who violates a provision of this subtitle or a regulation adopted under this subtitle is subject to the penalties provided in § 9-343 of this article.

(C) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN EQUITY AND AFTER AN OPPORTUNITY FOR A HEARING, WHICH MAY BE WAIVED IN WRITING BY THE PERSON ACCUSED OF A VIOLATION, THE DEPARTMENT MAY IMPOSE A PENALTY FOR VIOLATION OF ANY PROVISION OF THIS SUBTITLE OR ANY REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER THIS SUBTITLE.

(2) THE PENALTY IMPOSED ON A PERSON UNDER THIS SUBSECTION SHALL BE:

(I) UP TO \$5,000 FOR EACH VIOLATION, BUT NOT EXCEEDING \$100,000 TOTAL; AND

(II) ASSESSED WITH CONSIDERATION GIVEN TO:

1. THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED REASONABLE CARE;

2. ANY ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH, INCLUDING INJURY TO OR IMPAIRMENT OF THE USE OF THE WATERS OF THE STATE OR THE NATURAL RESOURCES OF THE STATE;

3. THE COST OF CLEANUP AND THE COST OF RESTORATION OF NATURAL RESOURCES;

4. THE NATURE AND DEGREE OF INJURY TO OR INTERFERENCE WITH GENERAL WELFARE, HEALTH, AND PROPERTY;

5. THE EXTENT TO WHICH THE LOCATION OF THE VIOLATION, INCLUDING LOCATION NEAR WATERS OF THE STATE OR AREAS OF HUMAN POPULATION, CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH OR SAFETY;

6. THE AVAILABLE TECHNOLOGY AND ECONOMIC REASONABLENESS OF CONTROLLING, REDUCING, OR ELIMINATING THE VIOLATION;

7. THE DEGREE OF HAZARD OR HARM POSED BY THE VIOLATION; ~~AND~~

8. THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION COMMITTED BY THE VIOLATOR; AND

9. THE DEGREE OF COOPERATION WITH THE DEPARTMENT AFTER BEING NOTIFIED OF THE VIOLATION AND ANY GOOD FAITH EFFORTS TO ADDRESS THE VIOLATION.

(3) EACH DAY A VIOLATION EXISTS IS A SEPARATE VIOLATION UNDER THIS SUBSECTION.

(4) ANY PENALTY IMPOSED UNDER THIS SUBSECTION IS PAYABLE TO THE STATE AND COLLECTIBLE IN ANY MANNER PROVIDED AT LAW FOR THE COLLECTION OF DEBTS.

(5) IF ANY PERSON WHO IS LIABLE TO PAY A PENALTY IMPOSED UNDER THIS SUBSECTION FAILS TO PAY THE PENALTY AFTER DEMAND, THE AMOUNT, TOGETHER WITH INTEREST AND ANY COSTS THAT MAY ACCRUE, SHALL BE A LIEN IN FAVOR OF THE STATE ON ANY:

(I) REAL PROPERTY OF THE PERSON WHEN RECORDED WITH THE CLERK OF THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED; AND

(II) PERSONAL PROPERTY OF THE PERSON WHEN ATTACHED AND LEVIED BY THE STATE IN ACCORDANCE WITH THE MARYLAND RULES.

(D) BEFORE TAKING ANY CIVIL OR ADMINISTRATIVE ACTION TO RECOVER A PENALTY UNDER SUBSECTION (A) OR (C) OF THIS SECTION, THE DEPARTMENT SHALL:

(1) PROVIDE THE PERSON ALLEGED TO HAVE VIOLATED THIS SUBTITLE WITH WRITTEN NOTICE OF THE PROPOSED PENALTY AND AN OPPORTUNITY FOR AN INFORMAL MEETING CONCERNING SETTLEMENT OF THE PROPOSED CIVIL OR ADMINISTRATIVE PENALTY;

(2) USE DISCRETION TO DETERMINE WHETHER A FORMAL ENFORCEMENT ACTION UNDER THIS SECTION IS APPROPRIATE; AND

(3) IF APPLICABLE, REVIEW ANY GOOD FAITH APPLICATION FROM THE PERSON, OR AN AUTHORIZED REPRESENTATIVE OF THE PERSON, FOR A LOAN FROM THE PRIVATE DAM REPAIR FUND.

[(c)] ~~(D)~~ **(E)** (1) Except as provided in paragraph (2) of this subsection, all funds collected by the Department under this section, including any civil [penalty] **OR ADMINISTRATIVE PENALTIES** or any fine imposed by a court under the provisions of this section, shall be paid into the Maryland Clean Water Fund.

(2) Funds collected by the Department under this section relating to an unsafe condition shall be paid into the Private Dam Repair Fund.

5-515.

(a) After or concurrently with the service of a complaint under this subtitle [relating to water appropriation and use], the Department may:

(1) Issue an order that requires the person to whom the order is directed to take corrective action within a time set in the order;

(2) Send a written notice that requires the person to whom the notice is directed to file a written report about the alleged violation; or

(3) Send a written notice that requires the person to whom the notice is directed:

(i) To appear at a hearing before the Department at a time and place the Department sets to answer the charges in the complaint; or

(ii) To file a written report and also to appear at a hearing before the Department at a time and place the Department sets to answer the charges in the complaint.

(b) Any order issued under this section is effective immediately, according to its terms, when it is served.

5-516.

(a) The Department shall give notice and hold any hearing related to orders imposed under [the water appropriation and use provisions of] this subtitle in accordance with the Administrative Procedure Act.

(b) (1) Within 10 days after being served with an order under § 5–515(a)(1) of this subtitle, the person served may request in writing a hearing before the Department.

(2) (i) Subject to subparagraph (ii) of this paragraph, if a request for a hearing on an order is made under this subsection, the Department shall:

1. Hold the hearing promptly after receiving the request; and
2. Render a decision promptly after the hearing.

(ii) If a request for a hearing on an order is made under this subsection and the Department alleges in the order that there is an imminent threat or danger to the public health or safety or to the environment, the Department shall:

1. Hold the hearing within 10 days after receiving the request; and
2. Render a decision within 10 days after the hearing.

(c) Within 10 days after being served with a notice under § 5–515(a)(2) of this subtitle, the person served may request in writing a hearing before the Department.

(d) The Department may make a verbatim record of the proceedings of any hearing held under this subtitle.

(e) (1) In connection with any hearing under this subtitle, the Department may:

- (i) Subpoena any person or evidence; and
- (ii) Order a witness to give evidence.

(2) A subpoenaed witness shall receive the same fees and mileage reimbursement as if the hearing were part of a civil action.

(3) If a person fails to comply with a subpoena or order issued under this subsection, on petition of the Department, a circuit court, by order, may:

- (i) Compel obedience to the Department's order or subpoena; or
- (ii) Compel testimony or the production of evidence.

(4) The court may punish as contempt any failure to obey its order issued under this section.

9–320.

(a) There is a Maryland Clean Water Fund.

(b) Except as provided in § 9–303.4 of this subtitle, the following payments shall be made into the Maryland Clean Water Fund:

(1) All application fees, permit fees, renewal fees, and funds collected by the Department under this subtitle, including any civil or administrative penalty or any fine imposed by a court under the provisions of this subtitle;

(2) **[Any] WITH THE EXCEPTION OF PENALTIES AND FINES REQUIRED TO BE PAID INTO THE PRIVATE DAM REPAIR FUND, ANY CIVIL OR ADMINISTRATIVE** penalty or any fine imposed by a court under the provisions of Title 5, Subtitle 5 of this article [relating to water appropriation and use];

(3) Any civil or administrative penalty or any fine imposed by a court under the provisions of Title 4, Subtitle 1 of this article;

(4) Any fees or funds that the Department collects under Subtitle 2, Part III of this title and §§ 9–269 and 9–270 of this title and any civil or administrative penalty or fine imposed by a court under the provisions of Subtitle 2 of this title;

(5) Any fees or funds that the Department collects under Subtitle 24 of this title and any civil or administrative penalty or fine imposed by a court under the provisions of Subtitle 24 of this title; and

(6) Any other fees legally authorized to be paid into the Maryland Clean Water Fund.

(c) The Department shall use the Maryland Clean Water Fund for activities that are related to:

(1) The identification, monitoring, and regulation of the proper discharge of effluent into the waters of the State including program development of these activities as provided by the State budget;

(2) The management, conservation, protection, and preservation of the State’s groundwater and surface water including program development of these activities as provided by the State budget;

- (3) Correcting to the extent possible the failure to implement or maintain erosion and sediment controls;
- (4) Administration of the sediment control program;
- (5) Emergency removal of sewage sludge or mitigation of the effect of any utilization of sewage sludge that the Department finds:
 - (i) Endangers public health, safety, or welfare; or
 - (ii) Endangers or damages natural resources;
- (6) Activities that are:
 - (i) Conducted by the Department, by a local health official, or by the local health official's designee under § 9-243(e) of this title;
 - (ii) Related to identifying, monitoring, or regulating the utilization of sewage sludge, including program development; and
 - (iii) Conducted by the Department under Subtitle 24 of this title; and
- (7) Providing supplemental inspections and monitoring of sewage sludge utilization sites by:
 - (i) Contracting with a county on request of that county to provide supplemental inspections and monitoring; and
 - (ii) Limiting the value of services provided under the contract to no more than 45% of the generator fees for sludge utilized in that county that is generated outside of that county or service area.

~~16-502.~~

~~(a) (1) A person who violates any provision of this title or any regulation, permit, license, or order issued under this title shall be liable for a penalty not exceeding \$10,000, which may be recovered in a civil action.~~

~~(2) In imposing a penalty under this subsection, the court may consider the factors in § 9-342(b)(2)(ii) of this article and any other relevant factors.~~

~~**(3) EACH DAY A VIOLATION EXISTS IS A SEPARATE VIOLATION UNDER THIS SUBSECTION.**~~

~~(b) The circuit court may issue an injunction requiring the person to cease the violation and restore the area unlawfully dredged or filled.~~

~~(c) Before taking any civil action to recover a penalty under subsection (a) of this section, the Department shall provide the person alleged to have violated this title with written notice of the proposed penalty and an opportunity for an informal meeting concerning settlement of the proposed civil action.~~

~~(D) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN EQUITY AND AFTER AN OPPORTUNITY FOR A HEARING, WHICH MAY BE WAIVED IN WRITING BY THE PERSON ACCUSED OF A VIOLATION, THE DEPARTMENT MAY IMPOSE A PENALTY FOR VIOLATION OF ANY PROVISION OF THIS TITLE OR ANY REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER THIS TITLE.~~

~~(2) THE PENALTY IMPOSED ON A PERSON UNDER THIS SUBSECTION SHALL BE:~~

~~(i) UP TO \$5,000 FOR EACH VIOLATION, BUT NOT EXCEEDING \$100,000 TOTAL; AND~~

~~(ii) ASSESSED WITH CONSIDERATION GIVEN TO:~~

~~1. THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED REASONABLE CARE;~~

~~2. ANY ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH, INCLUDING INJURY TO OR IMPAIRMENT OF THE USE OF THE WATERS OF THE STATE OR THE NATURAL RESOURCES OF THE STATE;~~

~~3. THE COST OF CLEANUP AND THE COST OF RESTORATION OF NATURAL RESOURCES;~~

~~4. THE NATURE AND DEGREE OF INJURY TO OR INTERFERENCE WITH GENERAL WELFARE, HEALTH, AND PROPERTY;~~

~~5. THE EXTENT TO WHICH THE LOCATION OF THE VIOLATION, INCLUDING LOCATION NEAR WATERS OF THE STATE OR AREAS OF HUMAN POPULATION, CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH OR SAFETY;~~

~~6. THE AVAILABLE TECHNOLOGY AND ECONOMIC REASONABLENESS OF CONTROLLING, REDUCING, OR ELIMINATING THE VIOLATION;~~

~~7. THE DEGREE OF HAZARD POSED BY THE PARTICULAR POLLUTANT OR POLLUTANTS INVOLVED; AND~~

~~8. THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION COMMITTED BY THE VIOLATOR.~~

~~(3) EACH DAY A VIOLATION EXISTS IS A SEPARATE VIOLATION UNDER THIS SUBSECTION.~~

~~(4) ANY PENALTY IMPOSED UNDER THIS SUBSECTION IS PAYABLE TO THE STATE AND COLLECTIBLE IN ANY MANNER PROVIDED AT LAW FOR THE COLLECTION OF DEBTS.~~

~~(5) IF ANY PERSON WHO IS LIABLE TO PAY A PENALTY IMPOSED UNDER THIS SUBSECTION FAILS TO PAY THE PENALTY AFTER DEMAND, THE AMOUNT, TOGETHER WITH INTEREST AND ANY COSTS THAT MAY ACCRUE, SHALL BE A LIEN IN FAVOR OF THE STATE ON ANY:~~

~~(i) REAL PROPERTY OF THE PERSON WHEN RECORDED WITH THE CLERK OF THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED; AND~~

~~(ii) PERSONAL PROPERTY OF THE PERSON WHEN ATTACHED AND LEVIED BY THE STATE IN ACCORDANCE WITH THE MARYLAND RULES.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application of any provision of this Act to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2026.

Approved by the Governor, April 28, 2026.