

SENATE BILL 492

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By: **Senators Pinsky, Guzzone, Elfreth, Lam, Patterson, Rosapepe, and Washington**

Introduced and read first time: January 27, 2022

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Discharge Permits – Inspections and Administrative**
3 **Continuations**

4 FOR the purpose of limiting the period of time for which the Department of the
5 Environment may administratively continue certain water pollution discharge
6 permits; establishing inspection and reporting requirements for certain permit
7 holders; establishing administrative penalties for certain permit holders determined
8 to be in significant noncompliance of certain State or federal water quality
9 standards, effluent limitations, or other requirements; requiring the Department to
10 clear a certain backlog of administratively continued permits on or before a certain
11 date; and generally relating to water pollution discharge permits.

12 BY repealing and reenacting, with amendments,
13 Article – Environment
14 Section 9–328
15 Annotated Code of Maryland
16 (2014 Replacement Volume and 2021 Supplement)

17 BY adding to
18 Article – Environment
19 Section 9–328.1
20 Annotated Code of Maryland
21 (2014 Replacement Volume and 2021 Supplement)

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

24 **Article – Environment**

25 9–328.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) (1) Unless it is renewed for another term, a discharge permit expires on the expiration date the Department sets at issuance or renewal.

(2) The Department may not issue a discharge permit for a term longer than 5 years.

(b) Before a discharge permit expires, the Department may renew the discharge permit for another term:

(1) After administrative review in accordance with the rules and regulations that the Department adopts;

(2) After notice and opportunity for public hearing on the subject;

(3) On the condition that the discharge meets or will meet:

(i) Any applicable State or federal water quality standards or effluent limitations; and

(ii) Any applicable requirement of this subtitle; and

(4) If the permit holder pays all application and permit fees assessed by the Department under this subtitle.

(c) (1) ON OR AFTER JULY 1, 2022, THE DEPARTMENT MAY NOT ADMINISTRATIVELY CONTINUE A DISCHARGE PERMIT FOR A PERIOD LONGER THAN 3 YEARS.

(2) ON OR AFTER JANUARY 1, 2027, THE DEPARTMENT MAY NOT ADMINISTRATIVELY CONTINUE A DISCHARGE PERMIT FOR A PERIOD LONGER THAN 1 YEAR.

(D) Administrative review proceedings under this section shall be completed at least 60 days before the expiration date of the permit.

9-328.1.

(A) IN THIS SECTION, "ADMINISTRATIVELY CONTINUED PERMIT" MEANS A DISCHARGE PERMIT THAT HAS BEEN ADMINISTRATIVELY CONTINUED UNDER DEPARTMENT REGULATIONS IN ACCORDANCE WITH 40 C.F.R. § 122.6(D).

(B) TO ENSURE COMPLIANCE WITH THE TERMS OF A DISCHARGE PERMIT, AT LEAST ONCE PER MONTH THE DEPARTMENT SHALL INSPECT THE OPERATIONS OF:

1 (1) EACH PERMIT HOLDER OPERATING UNDER AN
2 ADMINISTRATIVELY CONTINUED PERMIT; AND

3 (2) EACH PERMIT HOLDER THAT THE DEPARTMENT HAS
4 DETERMINED TO BE IN SIGNIFICANT NONCOMPLIANCE OF AN APPLICABLE STATE
5 OR FEDERAL WATER QUALITY STANDARD, EFFLUENT LIMITATION, OR OTHER
6 APPLICABLE REQUIREMENT OF THE DEPARTMENT OR THE U.S. ENVIRONMENTAL
7 PROTECTION AGENCY.

8 (C) (1) THIS SUBSECTION APPLIES TO A PERMIT HOLDER THAT:

9 (I) IS DETERMINED BY THE DEPARTMENT TO BE IN
10 SIGNIFICANT NONCOMPLIANCE OF AN APPLICABLE STATE OR FEDERAL WATER
11 QUALITY STANDARD, EFFLUENT LIMITATION, OR OTHER APPLICABLE
12 REQUIREMENT OF THE DEPARTMENT OR THE U.S. ENVIRONMENTAL PROTECTION
13 AGENCY TWO OR MORE TIMES IN A YEAR;

14 (II) REPORTS EXCEEDING EFFLUENT LIMITATIONS FOR TWO OR
15 MORE PARAMETERS REQUIRED TO BE MONITORED UNDER THE DISCHARGE PERMIT;
16 OR

17 (III) REPORTS EXCEEDING, BY 200% OR MORE, EFFLUENT
18 LIMITATIONS FOR ANY SINGLE PARAMETER REQUIRED TO BE MONITORED UNDER
19 THE DISCHARGE PERMIT.

20 (2) THE DEPARTMENT SHALL REQUIRE A PERMIT HOLDER
21 SPECIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO SUBMIT A WRITTEN
22 REPORT TO THE DEPARTMENT DETAILING:

23 (I) HOW VIOLATIONS REPORTED BY THE PERMIT HOLDER OR
24 NOTED BY THE DEPARTMENT WILL BE ADDRESSED; AND

25 (II) THE TIMELINE FOR ADDRESSING THE VIOLATIONS.

26 (D) (1) IF A PERMIT HOLDER REMAINS IN SIGNIFICANT NONCOMPLIANCE
27 FOR THE SAME UNDERLYING CONDITION AFTER 2 CONSECUTIVE MONTHS OF
28 INSPECTIONS CONDUCTED UNDER SUBSECTION (B)(2) OF THIS SECTION, THE
29 PERMIT HOLDER SHALL BE SUBJECT TO AN ADMINISTRATIVE PENALTY OF:

30 (I) FOR A PERMIT HOLDER CLASSIFIED BY THE DEPARTMENT
31 AS A MINOR FACILITY:

1 **1. \$250 WHEN THE CONDITION IS OBSERVED ON THE**
2 **THIRD CONSECUTIVE INSPECTION;**

3 **2. \$500 WHEN THE CONDITION IS OBSERVED ON THE**
4 **FOURTH CONSECUTIVE INSPECTION; AND**

5 **3. \$2,500 WHEN THE CONDITION IS OBSERVED ON THE**
6 **FIFTH CONSECUTIVE INSPECTION OR ANY SUBSEQUENT CONSECUTIVE INSPECTION;**
7 **AND**

8 **(II) FOR A PERMIT HOLDER CLASSIFIED BY THE DEPARTMENT**
9 **AS A MAJOR FACILITY:**

10 **1. \$1,000 WHEN THE CONDITION IS OBSERVED ON THE**
11 **THIRD CONSECUTIVE INSPECTION;**

12 **2. \$5,000 WHEN THE CONDITION IS OBSERVED ON THE**
13 **FOURTH CONSECUTIVE INSPECTION; AND**

14 **3. \$10,000 WHEN THE CONDITION IS OBSERVED ON THE**
15 **FIFTH CONSECUTIVE INSPECTION OR ANY SUBSEQUENT CONSECUTIVE INSPECTION.**

16 **(2) THE PENALTIES PROVIDED UNDER THIS SUBSECTION ARE IN**
17 **ADDITION TO ANY OTHER CIVIL OR CRIMINAL PENALTIES PROVIDED UNDER THIS**
18 **SUBTITLE.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That:

20 (a) In this section, "Department" means the Department of the Environment.

21 (b) Subject to subsection (c) of this section, this Act shall be interpreted to apply
22 only prospectively to discharge permits issued, renewed, or administratively continued on
23 or after the effective date of this Act.

24 (c) On or before December 31, 2026, the Department shall clear the backlog of
25 administratively continued discharge permits existing on the effective date of this Act.

26 (d) (1) On or before December 31, 2023, the Department shall report to the
27 Governor and, in accordance with § 2-1257 of the State Government Article, the General
28 Assembly on the number of additional employees necessary to:

29 (i) clear the backlog of administratively continued discharge
30 permits, as required by subsection (c) of this section; and

1 (ii) process discharge permit renewals in a timely manner, as
2 required by § 9–328(c) of the Environment Article, as enacted by Section 1 of this Act.

3 (2) The Department shall request:

4 (i) on or before December 31, 2024, Position Identification Numbers
5 (PINs) for at least half of the additional employees identified in the report required under
6 paragraph (1) of this subsection; and

7 (ii) on or before December 31, 2025, PINs for the full number of
8 additional employees identified in the report required under paragraph (1) of this
9 subsection.

10 (e) On or before December 31, 2025, the Department shall report to the Governor
11 and, in accordance with § 2–1257 of the State Government Article, the General Assembly
12 on the progress toward meeting the requirements of this section.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
14 1, 2022.