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Environment and Natural Resources – Complaints, Inspections, and Enforcement – Information Maintenance and Reporting

HB 204 (Lierman); SB 324 (Elfreth)

Since 2002, state agencies staffing has been cut by more than 6,500 positions, which has led to dramatic decreases in the ability of our environmental agencies in particular to provide public accountability and transparency of their enforcement activities. This bill requires the Maryland Department of the Environment (“MDE”) and the Department of Natural Resources (“DNR”) to maintain a website with inspection, enforcement, complaint, and other compliance information.

WHAT THIS BILL DOES

- 1) MDE and DNR will publish and maintain a website with information regarding pollution complaints, inspections of facilities, and enforcement actions that have been initiated by MDE and DNR as well as information on the status of permit process for facilities, including whether the permit is deemed to be expired or administratively extended.
- 2) The information posted on the website will: be updated at least monthly; maintained in a database format to ensure that the information is searchable; and kept online for at least ten years.

WHY THIS BILL IS IMPORTANT

- ***Dramatic Reduction in Environmental Staffing since 2002***
According to recent Administration reports, MDE has lost 13.1% of their positions and has been identified as the agency with the third most urgent agency shortfall, after the State Police and Public Safety and Corrections. DNR has also lost 17.5% of their positions. Beyond a reduction in the ability of the agencies to undertake enforcement actions, the agencies acknowledge that this dramatic reduction in agency staffing also has substantially limited their ability to adequately communicate and engage with the public, or to process and respond to public complaints of environmental violations. This not only results in a failure to serve the public, but it hinders the rights of Marylanders to assist in identifying and stopping illegal pollution.

- ***Promotes Public Access to Pollution Information and Enforcement***

Access to environmental information is a fundamental right found in state, federal, and even international law. The Maryland Environmental Policy Act (MEPA) requires of state agencies “the fullest practicable provision of timely public information” and Maryland's Public Information Act establishes that “all persons are entitled to have access to information about the affairs of government.” The very first section of the federal Clean Water Act states that “public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this chapter shall be provided for, encouraged, and assisted by the Administrator and the States.” Unless Maryland joins the 21st century and nearly every other state in the region in providing web access to compliance and complaint information, it cannot dutifully fulfill these statutory duties.

- ***Reduces Administrative Burden on Agencies***

Not only is access to environmental enforcement data an important right of Marylanders, it is also an issue of good government and common sense. MDE has acknowledged that it is overwhelmed by Public Information Act requests and data show that it receives more requests than any other state agency. The lack of adequate staffing at MDE is well-documented and a significant hindrance to its mission. The agency would save extremely valuable time, money, and staff resources by ensuring that any public records in its possession are clearly provided to the public via its website. This bill is a step in the right direction in making that happen.

- ***Supports the Legal Right of Public Participation in Environmental Enforcement***

The Clean Water Act, like many of our foundational environmental laws, was intentionally designed to allow the public to step in and enforce the laws when needed, thereby alleviating state and federal agencies of the overwhelming burden of taking on this role alone. Marylanders cannot provide this desperately needed assistance effectively or efficiently without access to the relevant information for which they have a fundamental right.

- ***Ensures Transparency and Accountability in our Effort to Protect Clean Water***

Finally, the need for greater access to environmental enforcement data could not be more clear. Not only has the level of enforcement of our environmental laws declined at the federal Environmental Protection Agency, the number of actions taken by MDE to enforce the Clean Water Act and state water pollution control laws has declined substantially (by 85% in just a few years), exacerbating the challenges we have of meeting our clean water goals. The need for public enforcement is greatest when the state proves unwilling or incapable of doing the job itself.

Q&A

- 1. Will this be costly or burdensome?** *No. The bill builds from MDE's successful new Environmental Tracking System (ETS) information technology project. The ETS system will enable the Department to seamlessly comply with the provisions of this bill. The Department of Natural Resources' reporting obligations under this bill can also be implemented with minimal or no cost.*
- 2. Do other jurisdictions do this?** *Yes. Many states around the country, and particularly our neighboring states from North Carolina to New York have much greater transparency and easily accessible information regarding inspections, enforcement actions, and settlements. State and federal laws encourage, and in some cases require, environmental agencies to maximize public participation and access to information and modern information technology platforms easily enable agencies to create these information sharing tools.*
- 3. How will this help the Department?** *Agency staff acknowledge their resource constraints, the significant drop in compliance activity, and their struggle fulfilling Public Information Act requests. By simply requiring the agencies to make their electronic information available to the public in an electronic format, the bill enables the public to assist the agencies in the enforcement process adding significant resources just as state and federal laws envisioned. Moreover, by posting the information online, the bill will obviate the need for the public to file more PIA requests.*