
By: **Chairman, Environmental Matters Committee (Departmental - Environment)**

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CHAPTER 604

1 AN ACT concerning

2 **Environment - Maryland Oil Disaster Containment, Clean-Up and**
3 **Contingency Fund and Oil Contaminated Site Environmental Cleanup Fund**

4 FOR the purpose of altering the per barrel fee for oil transferred in the State and
5 credited to the Maryland Oil Disaster Containment, Clean-Up and Contingency
6 Fund; designating a certain per barrel fee to be credited to the Oil Contaminated
7 Site Environmental Cleanup Fund and a certain date on which the fee expires;
8 designating certain dates that site rehabilitation costs from contamination
9 caused by releases from certain oil tanks may be eligible for reimbursement
10 from certain funds; designating a certain percentage of revenues in the Oil
11 Contaminated Site Environmental Cleanup Fund that shall be used for heating
12 oil tank site rehabilitation; increasing the percentage of the Oil Contaminated
13 Site Environmental Cleanup Fund that may be used by the Department for
14 administration of obligations relating to the Fund; restricting certain tanks
15 from eligibility for funding; providing that certain revenues from the Oil
16 Contaminated Site Environmental Cleanup Fund be invested in interest
17 bearing accounts with the accrued interest credited to certain Fund uses;
18 authorizing owners or operators of certain tanks to apply for certain funds for
19 reimbursement after a certain date and restricting reimbursements to certain
20 limits per occurrence; exempting certain tanks from certain certifications;
21 prohibiting from reimbursement from the Oil Contaminated Site
22 Environmental Cleanup Fund certain costs for replacement or retrofitting of
23 certain tanks; adding certain tanks for which the Department may, when it
24 assumes control of an oil spill, be reimbursed from the Oil Contaminated Site
25 Environmental Cleanup Fund; adding certain site rehabilitation costs that,
26 when incurred by the Department, may be recovered from certain persons;
27 authorizing the Secretary of the Environment to transfer certain funds reserved

1 in the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund to
2 fund other related activities for certain fiscal years; requiring the Secretary of
3 the Environment to convene a work group to provide certain findings and
4 recommendations; requiring the Department to report to certain committees of
5 the legislature by a certain date or as designated by the Secretary of the
6 Environment; prohibiting the Department from spending certain revenues
7 derived from certain license fees altered under this Act until the Department
8 satisfies a certain audit report recommendation; and generally relating to the
9 Maryland Oil Disaster Containment, Clean-Up and Contingency Fund and the
10 Oil Contaminated Site Environmental Cleanup Fund.

11 BY repealing and reenacting, with amendments,
12 Article - Environment
13 Section 4-411, 4-704, 4-705, and 4-706
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 1999 Supplement)

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

18 **Article - Environment**

19 4-411.

20 (a) In this section the following words and phrases have the meanings
21 indicated.

22 (1) "Fund" means the Maryland Oil Disaster Containment, Clean-Up
23 and Contingency Fund.

24 (2) "Transfer" means the offloading or unloading of oil in the State from
25 or to any commercial vessel, barge, tank truck, tank car, pipeline, or any other means
26 used for transporting oil.

27 (3) "Barrel" means any measure of petroleum products or its by-products
28 which consists of 42.0 U.S. gallons of liquid measure.

29 (b) A person other than a vessel or barge may not transfer oil in the State
30 without a license.

31 (c) (1) A license required under this section shall be secured from the
32 Department of the Environment subject to the terms and conditions set forth in this
33 section. The fee on any barrel shall be imposed only once, at the point of first transfer
34 in the State. The license fee shall be:

35 (i) Based on a [1 cent] 2 CENTS per barrel fee for oil transferred in
36 the State and credited to the Maryland Oil Disaster Containment, Clean-Up and
37 Contingency Fund; and

1 (ii) Until July 1, [2000] 2005, based on an additional [0.5 cents] 1
2 CENT per barrel fee for oil transferred in the State and credited to the [Maryland Oil
3 Disaster Containment, Clean-Up and Contingency Fund] OIL CONTAMINATED SITE
4 ENVIRONMENTAL CLEANUP FUND AS DESCRIBED IN SUBTITLE 7 OF THIS TITLE.

5 (2) The license fee shall be paid quarterly to the Department and on
6 receipt by the Comptroller, credited to the proper fund. The licensee shall certify to
7 the Department, on forms as may be prescribed by the Department, the number of
8 barrels of oil transferred by the licensee during the fee quarter no later than the last
9 day of the month following the fee quarter. These records shall be kept confidential by
10 the Department.

11 (3) When the balance in the Maryland Oil Disaster Containment,
12 Clean-Up and Contingency Fund from the monthly license fees paid under paragraph
13 (1)(i) of this subsection into the Fund equals or exceeds a maximum limit of
14 \$5,000,000, collection of subsequent monthly license fees under paragraph (1)(i) of
15 this subsection shall be abated until:

16 (i) The balance in the Fund from the license fees becomes less than
17 or equal to \$4,000,000; or

18 (ii) There is evidence that the balance in the Fund could be
19 significantly reduced by the recent occurrence of a major discharge or series of
20 discharges.

21 (4) If a licensee fails to remit the fee and accompanying certification
22 required by this section, the amount of the license fee due shall be determined by the
23 Department from information as may be available. Notice of this determination shall
24 be given to the licensee liable for payment of the license fee. The determination shall
25 finally and irrevocably fix the fee unless the licensee against whom it is assessed,
26 within 30 days after receiving notice of the determination, shall apply to the
27 Department for a hearing or unless the Department, on its own, shall redetermine the
28 fee.

29 (5) The Department shall promulgate rules and regulations, establish
30 audit procedures for the audit of licensees, and prescribe and publish forms as may be
31 necessary to effectuate the purposes of this section.

32 (d) As a condition precedent to the issuance or renewal of a license, the
33 Department shall require satisfactory evidence that the applicant has implemented
34 or is in the process of implementing State and federal plans and regulations to control
35 pollution related to oil, petroleum products, and their by-products and the abatement
36 thereof when a discharge occurs.

37 (e) Any person who violates subsection (b) or subsection (c) of this section is
38 guilty of a misdemeanor and upon conviction in a court of competent jurisdiction is
39 subject to a fine not exceeding \$10,000 plus any accrued but unpaid license fees.

40 (f) There is a Maryland Oil Disaster Containment, Clean-Up and
41 Contingency Fund for the Department to use to develop equipment, personnel, and

1 plans; for contingency actions to respond to, contain, clean-up, and remove from the
2 land and waters of the State discharges of oil, petroleum products, and their
3 by-products into, upon, or adjacent to the waters of the State; and restore natural
4 resources damaged by discharges. The cost of containment, clean-up, removal, and
5 restoration, including attorneys' fees and litigation costs, shall be reimbursed to the
6 State by the person responsible for the discharge. The reimbursement shall be
7 credited to the Fund. The Fund shall be limited in accordance with the limits set forth
8 in this section. To this sum shall be credited every license fee, fine, if imposed by the
9 circuit court for any county, and any other charge related to this subtitle. To this Fund
10 shall be charged every expense the Department of the Environment has which relates
11 to this section.

12 (g) Money in the Fund not needed currently to meet the Department of the
13 Environment's obligations in the exercise of its responsibility under this section shall
14 be deposited with the State Treasurer to the credit of the Fund, and may be invested
15 as provided by law. Interest received on the investment shall be credited to the Fund.
16 The Secretary of the Environment shall determine the proper allocation of the
17 moneys credited to the Fund only for the following purposes:

18 (1) Administrative expenses, personnel expenses, and equipment costs of
19 the Department related to the purposes of this section.

20 (2) Prevention, control, containment, clean-up, and removal of
21 discharges into, upon, or adjacent to waters of the State of discharges of oil, petroleum
22 products and their by-products, and the restoration of natural resources damaged by
23 such discharges.

24 (3) Development of containment and clean-up equipment, plans, and
25 procedures in accordance with the purposes of this section.

26 (4) Paying insurance costs by the State to extend or implement the
27 benefits of the Fund.

28 (h) The Department shall provide the standing committees of the Maryland
29 General Assembly with primary jurisdiction over this section with a status report on
30 the Fund on or before October 1 of each year. The report shall include an accounting
31 of all moneys expended for each of the purposes specified in subsection (g) of this
32 section.

33 4-704.

34 (a) There is an Oil Contaminated Site Environmental Cleanup Fund.

35 (b) [The] SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE Fund shall be
36 used to:

37 (1) Reimburse an owner or operator of:

38 (I) [an] AN underground oil storage tank SUBJECT TO THE
39 REQUIREMENTS OF § 4-409(B)(3) OF THIS TITLE for site rehabilitation costs incurred

1 on or after October 1, 1993 resulting from contamination caused by releases from an
2 underground oil storage tank;

3 (II) AN UNDERGROUND OIL STORAGE TANK NOT SUBJECT TO THE
4 REQUIREMENTS OF § 4-409(B)(3) OF THIS TITLE FOR SITE REHABILITATION COSTS
5 INCURRED ON OR AFTER OCTOBER 1, 2000 RESULTING FROM CONTAMINATION
6 CAUSED BY RELEASES FROM AN UNDERGROUND OIL STORAGE TANK; OR

7 (III) A HEATING OIL TANK FOR SITE REHABILITATION COSTS
8 INCURRED ON OR AFTER OCTOBER 1, 2000 RESULTING FROM CONTAMINATION
9 CAUSED BY RELEASES FROM A HEATING OIL TANK INCLUDING PIPING CONNECTED
10 TO THE TANK;

11 (2) Provide funds for site rehabilitation activities carried out by the
12 Department or under the Department's direction and control; and

13 (3) To the extent provided in the State budget and in an amount not to
14 exceed [3%] 8% of the revenues in the Fund during the fiscal year, provide funds for
15 the Department's administration of this subtitle.

16 (c) TWENTY-FIVE PERCENT OF THE REVENUES CREDITED TO THE FUND
17 SHALL BE USED FOR REIMBURSEMENT OF HEATING OIL TANK SITE REHABILITATION
18 COSTS AS PROVIDED IN THIS SUBTITLE.

19 (D) The provisions of this subtitle do not apply to:

20 (1) [an] AN underground storage tank that is:

21 [(1) Exempt from the requirements of § 4-409(b)(3) of this title;

22 (2)] (I) Owned by a state, county, or municipal corporation; or

23 [(3)] (II) Owned by a local education agency.

24 (2) AN UNDERGROUND STORAGE TANK INSTALLED PURSUANT TO
25 SUBTITLE I OF THE FEDERAL RESOURCE CONSERVATION AND RECOVERY ACT; OR

26 (3) OWNERS OR OPERATORS OF UNDERGROUND STORAGE TANKS THAT
27 WERE NOT IN COMPLIANCE WITH THE REQUIREMENTS OF SUBTITLE I OF THE
28 FEDERAL RESOURCE CONSERVATION AND RECOVERY ACT ON DECEMBER 22, 1998.

29 (E) (1) MONEY IN THE FUND NOT REQUIRED TO MEET THE DEPARTMENT'S
30 OBLIGATIONS IN THE EXERCISE OF THE DEPARTMENT'S RESPONSIBILITY UNDER
31 THIS SECTION:

32 (I) SHALL BE DEPOSITED WITH THE STATE TREASURER TO THE
33 CREDIT OF THE FUND; AND

34 (II) MAY BE INVESTED AS PROVIDED BY LAW.

1 (2) INTEREST RECEIVED ON THE INVESTMENT OF THE EXCESS FUNDS
2 SHALL BE CREDITED TO THE FUND FOR USE FOR THE PURPOSES DESCRIBED IN THIS
3 SUBTITLE.

4 4-705.

5 (a) The owner or operator of an underground oil storage tank ELIGIBLE
6 UNDER § 4-704(B)(1)(I) OF THIS SUBTITLE may apply to the Fund for reimbursement,
7 on or after October 1, 1993, for usual, customary, and reasonable costs incurred on or
8 after October 1, 1993 in performing site rehabilitation.

9 (B) THE OWNER OR OPERATOR OF AN UNDERGROUND OIL STORAGE TANK
10 ELIGIBLE UNDER § 4-704(B)(1)(II) OF THIS SUBTITLE MAY APPLY TO THE FUND FOR
11 REIMBURSEMENT, ON OR AFTER OCTOBER 1, 2000, FOR USUAL, CUSTOMARY, AND
12 REASONABLE COSTS INCURRED ON OR AFTER OCTOBER 1, 2000 IN PERFORMING SITE
13 REHABILITATION.

14 (C) THE OWNER OF A HEATING OIL TANK ELIGIBLE UNDER § 4-704(B)(1)(III) OF
15 THIS SUBTITLE MAY APPLY TO THE FUND FOR REIMBURSEMENT, ON OR AFTER
16 OCTOBER 1, 2000, FOR USUAL, CUSTOMARY, AND REASONABLE COSTS INCURRED ON
17 OR AFTER OCTOBER 1, 2000 IN PERFORMING SITE REHABILITATION.

18 [(b)] (D) (1) Any reimbursement from the Fund for applications approved on
19 or after July 1, 1996 is subject to:

20 [(1)] (I) For owners or operators of six tanks or fewer, a deductible of
21 \$7,500;

22 [(2)] (II) For owners or operators of more than 6 but not more than 15
23 tanks, a deductible of \$10,000;

24 [(3)] (III) For owners or operators of more than 15 but not more than 30
25 tanks, a deductible of \$15,000;

26 [(4)] (IV) For owners or operators of more than 30 tanks, a deductible of
27 \$20,000; and

28 [(5) A limit of \$125,000 per occurrence.]

29 (V) FOR RESIDENTIAL OWNERS OF HEATING OIL TANKS, A
30 DEDUCTIBLE OF \$1,000; AND

31 (2) THE MAXIMUM AMOUNT TO BE REIMBURSED FROM THE FUND
32 SHALL BE:

33 (I) \$125,000 FOR UNDERGROUND OIL STORAGE TANKS PER
34 OCCURRENCE; AND

35 (II) \$10,000 FOR HEATING OIL TANKS PER OCCURRENCE.

1 [(c)] (E) To be eligible for reimbursement from the Fund, an owner or operator
2 shall:

3 (1) Certify that the discharge is not the result of a willful or deliberate
4 act;

5 (2) Submit a corrective action plan, schedule, and cost estimate to the
6 Department that shall include provisions for the environmentally sound treatment or
7 disposal of contaminated soils that meet all federal and State requirements and
8 standards; and

9 (3) [Certify] EXCEPT FOR HEATING OIL TANKS, CERTIFY that the
10 discharge is from a tank registered under § 4-411.1 of this title.

11 [(d)] (F) If the owner or operator knowingly submits a false certification under
12 subsection [(c)] (E) of this section, that owner or operator is not eligible for
13 reimbursement under this subtitle.

14 [(e)] (G) Only expenses that are cost-effective, reasonable, and consistent
15 with a corrective action plan approved by the Department may be eligible for
16 reimbursement from the Fund.

17 [(f)] (H) The cost for replacement or retrofitting of underground oil storage
18 tanks OR HEATING OIL TANKS and associated piping is not eligible for
19 reimbursement, and the Department may not incur these costs or expend moneys
20 from the Fund for these purposes.

21 4-706.

22 (a) If the Department has assumed control of an oil spill situation involving an
23 underground oil storage tank OR HEATING OIL TANK under this title, the Department
24 may obtain from the Fund, for site rehabilitations that meet the same cleanup
25 priority as those site rehabilitations reimbursed under § 4-705 of this subtitle:

26 (1) Reimbursement for usual, customary, and reasonable costs incurred
27 in performing site rehabilitation;

28 (2) A guarantee of payment to a qualified contractor for the usual,
29 customary, and reasonable costs of performing site rehabilitation; or

30 (3) Matching funds required under § 9003(h) of the Federal Solid Waste
31 Disposal Act for the Federal Leaking Underground Storage Tank Program.

32 (b) The per occurrence deductible or limitation provided under § 4-705[(b)](D)
33 of this subtitle does not apply to the reimbursement or guarantee to a contractor
34 under this section.

35 (c) In order to encourage that site rehabilitation activities be undertaken by
36 an owner, operator, or other person responsible for a discharge from an underground
37 oil storage tank OR HEATING OIL TANK, any site rehabilitation costs including

1 attorney's fees and litigation costs incurred by the Department or the Fund under this
2 section shall be recoverable from the responsible party to the Fund.

3 (d) Recoveries collected under subsection (c) of this section shall be paid into
4 the Fund.

5 SECTION 2. AND BE IT FURTHER ENACTED, That beginning in fiscal year
6 2001, notwithstanding the provisions of § 4-607(d)(3) of the Environment Article, the
7 Secretary of the Environment shall be authorized to use \$300,000 per fiscal year, for
8 fiscal year 2001, fiscal year 2002, fiscal year 2003, fiscal year 2004, and fiscal year
9 2005, from funds reserved under § 4-607(d)(3) of the Environment Article to fund
10 activities as described in § 4-411(f) of the Environment Article.

11 SECTION 3. AND BE IT FURTHER ENACTED, That the revenues derived
12 from the changes to the license fee under § 4-411(c)(1) of the Environment Article as
13 enacted by this Act may not be expended until the Department of the Environment
14 has satisfied recommendation number 4 of the Legislative Audit Report for the period
15 beginning July 1, 1996, and ending February 28, 1999, as pertaining to federal grants
16 for the Oil Control Program.

17 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That the Secretary of the
18 Environment shall convene a work group consisting of representatives of the various
19 sectors of the petroleum marketing industry and representatives from appropriate
20 public and private entities to review and assess long-term funding needs of the oil
21 pollution programs in the State. Subject to § 2-1246 of the State Government Article,
22 the Department of the Environment shall report the findings and recommendations
23 of the work group to the Legislative Policy Committee, the House Environmental
24 Matters Committee, and the Senate Economic and Environmental Affairs Committee
25 on a date to be determined by the Secretary, but no later than November 1, 2004.

26 SECTION 4. ~~5~~. AND BE IT FURTHER ENACTED, That this Act shall take
27 effect July 1, 2000.