
By: **Delegates Glassman and James**

Introduced and read first time: February 7, 2005

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Department of the Environment - Surface Mining - Denial of Permits**

3 FOR the purpose of requiring, instead of authorizing, the Department of the
4 Environment to deny surface mining permits on making a certain finding; and
5 generally relating to the denial of surface mining permits.

6 BY repealing and reenacting, with amendments,
7 Article - Environment
8 Section 15-810(b), (c), and (d)
9 Annotated Code of Maryland
10 (1996 Replacement Volume and 2004 Supplement)

11 BY adding to
12 Article - Environment
13 Section 15-810(c)
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 2004 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 15-810.

20 (b) The Department may deny the permit on finding that:

21 (1) Any requirement of this subtitle or any rule or regulation adopted
22 under it will be violated by the proposed operation;

23 (2) The operation will have an unduly adverse effect on wildlife or fresh
24 water, estuarine, or marine fisheries;

1 (3) [The applicant has failed to provide applicable permits or approvals
2 covering the operation from all State and local regulatory agencies responsible for air
3 and water pollution, sediment control, and zoning;

4 (4)] The operation will constitute a substantial physical hazard to a
5 neighboring dwelling house, school, church, hospital, commercial or industrial
6 building, public road, or other public or private property in existence at the time of
7 application for the permit;

8 [(5)] (4) The operation will have a significantly adverse effect on the
9 uses of a publicly owned park, forest, or recreation area in existence at the time of
10 application for the permit;

11 [(6)] (5) The applicant does not possess a valid surface mining license
12 from the State;

13 [(7)] (6) The applicant has not corrected all violations which he may
14 have committed under any prior permit and which resulted in:

15 (i) Revocation of his permit;

16 (ii) Termination of the operation by order of the Department;

17 (iii) Forfeiture of part or all of his bond or other security;

18 (iv) Conviction of a misdemeanor under §§ 15-807(f) and 15-808(k)
19 of this subtitle; or

20 (v) Any other court order issued against the applicant as a result of
21 departmental action; or

22 [(8)] (7) Previous experience with similar operations indicates a
23 substantial probability that the operation will result in substantial deposits of
24 sediment in stream beds or lakes, landslides, or other water pollution.

25 (C) THE DEPARTMENT SHALL DENY THE PERMIT ON FINDING THAT THE
26 APPLICANT HAS FAILED TO PROVIDE APPLICABLE PERMITS OR APPROVALS
27 COVERING THE OPERATION FROM ALL STATE AND LOCAL REGULATORY AGENCIES
28 RESPONSIBLE FOR AIR AND WATER POLLUTION, SEDIMENT CONTROL, AND ZONING.

29 [(c)] (D) In the absence of any of these findings, a permit shall be granted.
30 However, no permit becomes effective until the applicant has deposited with the
31 Department an acceptable performance bond or other security pursuant to § 15-823
32 of this subtitle.

33 [(d)] (E) Public notice, informational hearings, and contested case hearings
34 shall be conducted in accordance with the provisions of § 5-204 of this article.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 2005.

