

(PRE-FILED)

By: **Senator Brochin**
Requested: October 12, 2004
Introduced and read first time: January 12, 2005
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Environment - Construction on Golf Course Property - Soil Samples**

3 FOR the purpose of prohibiting a person from beginning or performing construction
4 on certain golf course property unless the person engages a certain consultant
5 for the taking of certain soil samples; requiring the consultant to take a certain
6 number of soil samples from certain locations; requiring certain testing of the
7 samples; requiring the consultant to make certain information available to
8 certain community associations; requiring a certain consultant to perform a
9 site-specific risk assessment under certain circumstances; and generally
10 relating to certain soil samples from certain golf course property.

11 BY repealing and reenacting, with amendments,
12 Article - Environment
13 Section 4-105
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 4-105.

20 (a) (1) (i) In this section "construction" means land clearing, grubbing,
21 topsoil stripping, soil movement, grading, cutting and filling, transporting, or
22 otherwise disturbing land for any purpose.

23 (ii) "Construction" includes land disturbing activities for the
24 purpose of:

25 1. Constructing buildings;

26 2. Mining minerals;

1 3. Developing golf courses; and

2 4. Constructing roads and installing utilities.

3 (2) (i) Before any person begins any construction, the appropriate
4 approval authority shall first receive, review, and approve the proposed earth change
5 and the sediment control plan.

6 (ii) Except as provided in subsection (b) of this section, the approval
7 authority is:

8 1. The appropriate soil conservation district;

9 2. A municipal corporation in Montgomery County that is
10 designated by a soil conservation district under paragraph (6) of this subsection;

11 3. Any municipality not within a soil conservation district;

12 4. If a State or federal unit undertakes any construction, the
13 Department; or

14 5. For abandoned mine reclamation projects conducted by
15 the Department of Natural Resources pursuant to Title 15, Subtitles 5, 6, and 11 of
16 this article, the Department of Natural Resources.

17 (iii) Criteria used by the Department of Natural Resources for
18 review and approvals under subparagraph (ii)4 of this paragraph:

19 1. Shall meet or exceed current Maryland standards and
20 specifications for soil erosion and sediment control; or

21 2. If alternative standards are applied, shall be reviewed and
22 approved by the Department.

23 (3) A person may not begin or perform any construction unless the
24 person:

25 (i) Obtains an approved sediment control plan;

26 (ii) Implements the measures contained in the approved sediment
27 control plan;

28 (iii) Conducts the construction as specified in the sequence of
29 construction contained in the approved sediment control plan;

30 (iv) Maintains the provisions of the approved sediment control plan;
31 and

32 (v) Implements any sediment control measures reasonably
33 necessary to control sediment runoff.

1 (4) (I) IN ADDITION TO THE REQUIREMENTS UNDER PARAGRAPH (3)
2 OF THIS SUBSECTION, A PERSON MAY NOT BEGIN OR PERFORM ANY CONSTRUCTION
3 ON A PROPERTY THAT HAS BEEN PREVIOUSLY UTILIZED AS A GOLF COURSE UNLESS
4 THE PERSON ENGAGES AN INDEPENDENT ENVIRONMENTAL CONSULTANT, TO BE
5 CHOSEN JOINTLY BY THE PERSON AND ANY COMMUNITY ASSOCIATION AFFECTED
6 BY THE CONSTRUCTION, FOR THE TAKING OF SOIL SAMPLES IN ACCORDANCE WITH
7 THE REQUIREMENTS OF SUBPARAGRAPH (II) THROUGH (IV) OF THIS PARAGRAPH.

8 (II) THE INDEPENDENT ENVIRONMENTAL CONSULTANT SHALL
9 TAKE A TOTAL OF AT LEAST 10 SOIL SAMPLES FROM THE PROPERTY, EACH AT A
10 DEPTH OF AT LEAST 4 FEET, FROM THE FOLLOWING LOCATIONS:

- 11 1. TWO FROM THE GREENS;
- 12 2. TWO FROM THE PESTICIDE OR HERBICIDE STORAGE
13 AREA;
- 14 3. ONE FROM A WOODED AREA; AND
- 15 4. THE REMAINDER FROM RANDOM LOCATIONS ON THE
16 PROPERTY.

17 (III) 1. EACH SAMPLE SHALL BE TESTED FOR ARSENIC, LEAD,
18 CADMIUM, MERCURY, CHLORDANE, AND DDT.

19 2. AT LEAST ONE OF THE 10 SAMPLES SHALL BE
20 DUPLICATED, AS APPROPRIATE, TO CONFIRM LABORATORY RESULTS.

21 (IV) THE INDEPENDENT ENVIRONMENTAL CONSULTANT SHALL
22 MAKE AVAILABLE TO ANY COMMUNITY ASSOCIATION AFFECTED BY THE
23 CONSTRUCTION THE RESULTS OF ALL SAMPLES, INCLUDING A PROJECTED
24 ENVIRONMENTAL IMPACT FOR EACH SUBSTANCE UNDER SUBPARAGRAPH (III)1 OF
25 THIS PARAGRAPH THAT IS FOUND.

26 (V) IF A DETRIMENTAL PUBLIC HEALTH OR ENVIRONMENTAL
27 IMPACT IS PROJECTED FOR ANY SUBSTANCE FOUND, THE PERSON SHALL ENGAGE
28 AN INDEPENDENT ENVIRONMENTAL CONSULTANT, TO BE CHOSEN JOINTLY BY THE
29 PERSON AND ANY COMMUNITY ASSOCIATION AFFECTED BY THE CONSTRUCTION, TO
30 PERFORM A SITE-SPECIFIC RISK ASSESSMENT.

31 [(4)] (5) In consultation with the person responsible for performing the
32 construction, the Department, jurisdictions delegated enforcement authority under §
33 4-103(e)(2) of this subtitle, or the appropriate approval agency may require
34 modifications to an approved sediment control plan if the approved plan is not
35 adequate to control sediment or erosion.

36 [(5)] (6) A person performing construction that proposes a major change
37 to an approved sediment control plan shall submit the proposed change to the
38 appropriate approval authority for review and approval.

1 [(6)] (7) A soil conservation district may delegate approval authority
2 under paragraph (2) of this subsection to a municipal corporation in Montgomery
3 County that:

4 (i) Has its own sediment control review provisions that are at least
5 as stringent as the provisions of the grading and sediment control plan of the soil
6 conservation district;

7 (ii) Issues sediment control permits; and

8 (iii) Meets the necessary performance standards established by
9 written agreement between the district and the municipal corporation.

10 (b) In Montgomery County, notwithstanding the provisions of subsection (c) of
11 this section and § 4-103(a)(1) of this subtitle, the soil conservation district may
12 delegate the authority to review and approve or reject any sediment control plans for
13 nonagricultural construction to the Montgomery County government by written
14 agreement between the district and the county government department authorized by
15 county law or regulation to perform those functions.

16 (c) In Prince George's and Montgomery counties, the Washington Suburban
17 Sanitary Commission, after consultation with and advice of the soil conservation
18 districts of the two counties and the Department of the Environment, shall prepare
19 and adopt rules and regulations for erosion and sediment control requirements for
20 utility construction work. The rules and regulations shall be adopted and enforced as
21 are others of the Commission under authority conferred by other laws. These rules
22 and regulations apply to any utility construction work in Prince George's and
23 Montgomery counties. The provisions of this subsection do not apply until the soil
24 conservation district in each county approves erosion and sediment control
25 requirements for utility construction work in that county.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 June 1, 2005.