

Chapter 667

(House Bill 511)

AN ACT concerning

State Board of Environmental Health Specialists – Transfer of Responsibilities

FOR the purpose of renaming the State Board of Environmental Sanitarians to be the State Board of Environmental Health Specialists; transferring the Board and certain functions, powers, duties, assets, liabilities, and records from the Department of the Environment to the Department of Health and Mental Hygiene; renaming environmental sanitarians to be environmental health specialists; altering the length of terms for certain Board members; altering a certain date relating to the staggering of the terms of Board members; altering the number of terms certain Board members may serve; requiring the Board to notify certain environmental health specialists of certain vacancies on the Board and provide the Secretary of Health and Mental Hygiene with a list of a certain number of candidates for each vacancy; requiring the Board to determine the duties of certain officers; clarifying certain quorum requirements; authorizing the Board to employ certain staff in accordance with the budget of the Board; authorizing the Board to sue to enforce certain provisions by injunction and issue certain subpoenas, summon certain witnesses, administer certain oaths, take certain affidavits, and take certain testimony; establishing a State Board of Environmental Health Specialists Fund as a continuing, nonlapsing fund that is not subject to certain provisions of law; authorizing the Board to set certain fees for certain purposes; requiring certain fees to be set so as to approximate the cost of maintaining the Board; requiring certain funds to be generated by certain fees; requiring the Board to remit certain fees to the Comptroller; requiring the Comptroller to distribute certain fees to the Fund; requiring the Fund to be used to cover certain costs; prohibiting the transfer or reversion of certain unspent portions of the Fund to the General Fund; prohibiting other State money to be used to support the Fund; requiring a designee of the Board to administer the Fund; requiring the legislative auditor to audit certain accounts and transactions of the Fund in accordance with certain provisions of law; altering the list of persons employed in certain job classifications that are not required to be licensed under this Act; requiring that certain applicants be of good moral character and at least a certain age; authorizing the Board to waive certain education and training requirements for an applicant to qualify to take the licensing examination under certain conditions; authorizing the Board to send certain notices by electronic means; requiring the Board to maintain certain records and a certain database regarding disciplinary matters; establishing a certain violation for failing to cooperate with certain investigations; prohibiting certain persons from using

certain titles and initials; altering certain penalties; extending the termination date of the Board; requiring that the Department of Legislative Services evaluate the Board by a certain date; providing that certain Board members may continue to serve for a certain term and that certain provisions will apply to certain vacancies on the Board; providing measures for continuity for certain license and certificate holders during a certain transition period; ~~expressing the intent of the General Assembly that the Department of the Environment and the Department of Health and Mental Hygiene cooperate to ensure adequate funding is available to support the Board during a certain fiscal year~~ requiring the Department of Health and Mental Hygiene to ensure adequate funding for the Board during a certain fiscal year; authorizing the Department of Health and Mental Hygiene to transfer certain funds to the Board from certain other boards under certain circumstances; expressing the intent of the General Assembly that the Board implement certain measures; requiring the Board to adopt certain regulations; repealing laws inconsistent with this Act; requiring the Board to repeal certain regulations; requiring the publishers of the Annotated Code of Maryland, in consultation with the Department of Legislative Services, to automatically make certain corrections in a certain manner; repealing certain obsolete provisions; making certain technical, conforming, and stylistic changes; defining certain terms; and generally relating to the State Board of Environmental Health Specialists.

BY transferring

Article – Environment

Section 11–101 through 11–502, respectively, and the title “Title 11. Environmental Sanitarians”

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

to be

Article – Health Occupations

Section 21–101 through 21–502, respectively, and the title “Title 21. Environmental Sanitarians”

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 1–406

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 21–101; 21–201 through ~~21–205~~ 21–206 to be under the amended subtitle “Subtitle 2. State Board of Environmental Health Specialists”; 21–301 through 21–310, 21–312 through 21–315, 21–401, 21–402,

21-501, and 21-502 to be under the amended title "Title 21. Environmental Health Specialists"

Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 21-102, ~~21-206~~, 21-207, and 21-311
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8-403(b)(22)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 11-101 through 11-502, respectively, and the title "Title 11. Environmental Sanitarians" of Article – Environment of the Annotated Code of Maryland be transferred to be Section(s) 21-101 through 21-502, respectively, and the title "Title 21. Environmental Sanitarians" of Article – Health Occupations of the Annotated Code of Maryland.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Environment

1-406.

The following units, among other units, are included in the Department:

- (1) Air Quality Control Advisory Council;
- (2) Environmental Noise Advisory Council;
- (3) Hazardous Substances Advisory Council;
- (4) Radiation Control Advisory Board;
- (5) Science and Health Advisory Group;
- (6) [Board of Environmental Sanitarians;

~~(7)~~ Board of Waterworks and Waste System Operators;

~~[(8)] (7)~~ Board of Well Drillers; and

~~[(9)] (8)~~ Hazardous Waste Facilities Siting Board.

Article – Health Occupations

Title 21. Environmental ~~[Sanitarians]~~ **HEALTH SPECIALISTS.**

Subtitle 1. General Provisions.

21–101.

(a) In this title the following words have the meanings indicated.

(b) “Board” means the State Board of Environmental ~~[Sanitarians]~~ **HEALTH SPECIALISTS.**

(c) **“ENVIRONMENTAL HEALTH SPECIALIST” MEANS AN INDIVIDUAL WHO PRACTICES AS AN ENVIRONMENTAL HEALTH SPECIALIST.**

(d) **“ENVIRONMENTAL HEALTH SPECIALIST–IN–TRAINING” MEANS AN INDIVIDUAL WHO MEETS THE EDUCATIONAL QUALIFICATIONS REQUIRED UNDER THIS TITLE BUT HAS NOT YET COMPLETED THE ENVIRONMENTAL HEALTH SPECIALIST–IN–TRAINING PROGRAM REQUIRED UNDER § 21–305 OF THIS TITLE.**

(e) **“ENVIRONMENTAL HEALTH SPECIALIST–IN–TRAINING PROGRAM” MEANS A PROGRAM OF TRAINING AND EXPERIENCE UNDER THE SUPERVISION OF A LICENSED ENVIRONMENTAL HEALTH SPECIALIST OR OTHER INDIVIDUAL ACCEPTABLE TO THE BOARD.**

~~[(c)](f)~~ “Hours of approved training” means the value given to participation in continuing education or experience as approved by the Board.

~~[(d)](g)~~ “License” means, unless the context requires otherwise, a license issued by the Board to practice as an environmental ~~[sanitarian]~~ **HEALTH SPECIALIST.**

(h) **“LICENSED ENVIRONMENTAL HEALTH SPECIALIST” MEANS AN INDIVIDUAL LICENSED BY THE BOARD TO PRACTICE AS AN ENVIRONMENTAL HEALTH SPECIALIST.**

[(e)](I) “Practice as an environmental [sanitarian] **HEALTH SPECIALIST**” means, as a major component of employment, to apply academic principles, methods and procedures of the environmental, physical, biological, and health sciences to the inspections and investigations necessary to collect and analyze data and to make decisions necessary to secure compliance with federal, State, and local health and environmental laws and regulations specifically relating to control of the public health aspects of the environment including:

- (1) The manufacture, preparation, handling, distribution, or sale of food and milk;
- (2) Water supply and treatment;
- (3) Wastewater treatment and disposal;
- (4) Solid waste management and disposal;
- (5) Vector control;
- (6) Insect and rodent control;
- (7) Air quality;
- (8) Noise control;
- (9) Product safety;
- (10) Recreational sanitation; and
- (11) Institutional and residential sanitation.

[(f)] “Registered environmental sanitarian” means an individual who is licensed by the Board to practice as an environmental sanitarian.

(g) “Sanitarian-in-training” means an individual who meets the educational qualifications required under this title but has not yet completed the sanitarian-in-training program required under § 11-305 of this title.

(h) “Sanitarian-in-training program” means a program of training and experience under the supervision of a registered environmental sanitarian or other individual acceptable to the Board.]

21-102.

This title does not prohibit an individual from practicing any other profession or occupation that the individual is authorized to practice under the laws of the State.

Subtitle 2. State Board of Environmental [Sanitarians] **HEALTH SPECIALISTS.**

21–201.

There is a State Board of Environmental [Sanitarians] **HEALTH SPECIALISTS** in the Department.

21–202.

(a) (1) The Board consists of 9 members appointed by the Governor with the advice of the Secretary, and with the advice and consent of the Senate.

(2) Of the 9 Board members:

(i) 7 shall be [registered] **LICENSED** environmental [sanitarians] **HEALTH SPECIALISTS** appointed as follows:

1. 1 shall be employed by private industry;
2. 1 shall be employed by the Department of the Environment;
3. 1 shall be employed by the Department [of Health and Mental Hygiene];
4. 1 shall be employed by a local health department and be employed under the State Personnel Management System;
5. 1 shall be employed by a local government and not be employed under the State Personnel Management System; and
6. 2 shall be appointed at large[. Their selection shall balance the Board as to geographical distribution throughout the State and may not include a second selection from any jurisdiction already represented]; and

(ii) 2 shall be consumer members.

(3) All Board members shall be residents of the State.

(B) THE MEMBERS APPOINTED AT LARGE SHALL REASONABLY REFLECT THE GEOGRAPHIC DIVERSITY OF THE STATE.

[(b)] (C) (1) The consumer members of the Board:

[(1)] (I) Shall be members of the general public;

[(2)] (II) May not be **[registered] LICENSED** environmental **[sanitarians] HEALTH SPECIALISTS**;

[(3)] (III) May not have a household member who is a **[registered] LICENSED** environmental **[sanitarian] HEALTH SPECIALIST**;

[(4)] (IV) May not participate or ever have participated in a related commercial or professional field;

[(5)] (V) May not have a household member who participates in a related commercial or professional field; and

[(6)] (VI) May not have had within 2 years before appointment a substantial financial interest in a person regulated by the Board.

[(c)] (2) While a member of the Board, a consumer member may not have a substantial financial interest in a person regulated by the Board.

(d) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(e) (1) The term of a member is **[5] 4** years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on **[July 1, 1981] JULY 1, 2012**.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) **[After July 1, 1984, a] A** member may not serve more than **[1] 2** consecutive **[5-year term] TERMS**.

(F) FOR EACH VACANCY OF A LICENSED ENVIRONMENTAL HEALTH SPECIALIST MEMBER, THE BOARD SHALL:

(1) SOLICIT NOMINATIONS BY NOTIFYING ALL LICENSED ENVIRONMENTAL HEALTH SPECIALISTS OF THE VACANCY; AND

(2) SUBMIT TO THE SECRETARY A LIST OF AT LEAST THREE CANDIDATES FOR EACH VACANCY.

[(f) (G) [The] ON THE RECOMMENDATION OF THE SECRETARY, THE Governor may remove a member for incompetence, misconduct, neglect of duty, or other sufficient cause.

21–203.

(a) From among its members, the Board annually shall elect a chairman, a vice chairman, and a secretary.

(b) **[(The manner of election of officers shall be as the Board determines.)]**
THE BOARD SHALL DETERMINE:

(1) THE MANNER OF ELECTION OF OFFICERS; AND

(2) THE DUTIES OF EACH OFFICER.

21–204.

(a) **[(Five members)] A MAJORITY** of the Board **[(are)] IS** a quorum.

(b) **[(1)]** The Board shall meet at least twice a year, at the times and places that the Board determines.

[(2)] Special meetings of the Board shall be called by the Board secretary at:

(i) The written request of 2 Board members or 5 registered environmental sanitarians; or

(ii) The direction of the Secretary of the Environment.]

(c) A member of the Board:

(1) May receive compensation as provided in the State budget; and

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) The Board may employ a staff in accordance with the **[(State)] budget OF THE BOARD.**

21–205.

(a) In addition to the powers set forth elsewhere in this title, the Board may [adopt]:

(1) **ADOPT** rules, regulations, and bylaws [as may be necessary] to carry out the provisions of this title;

(2) **SUE TO ENFORCE ANY PROVISION OF THIS TITLE BY INJUNCTION; AND**

(3) **ISSUE SUBPOENAS, SUMMON WITNESSES, ADMINISTER OATHS, TAKE AFFIDAVITS, AND TAKE TESTIMONY ABOUT MATTERS THAT RELATE TO THE JURISDICTION OF THE BOARD.**

(b) In addition to the duties set forth elsewhere in this title, the Board shall:

(1) Keep a current record of all [registered] **LICENSED** environmental [sanitarians] **HEALTH SPECIALISTS**;

(2) Collect and account for fees provided under this title;

(3) Pay all necessary expenses of the Board in accordance with the State budget;

(4) Keep a complete record of its proceedings;

(5) File an annual report of its activities, including a financial statement, with the Governor and the Secretary; and

(6) Adopt an official seal.

21–206.

(A) IN THIS SECTION, “FUND” MEANS THE STATE BOARD OF ENVIRONMENTAL HEALTH SPECIALISTS FUND.

(B) THERE IS A STATE BOARD OF ENVIRONMENTAL HEALTH SPECIALISTS FUND.

~~(a)~~ **(C)** (1) ~~Except for the fees specifically set by this title, the~~ **THE** Board may set reasonable fees for the issuance and renewal of licenses and its other services.

(2) THE FEES CHARGED SHALL BE SET SO AS TO APPROXIMATE THE COST OF MAINTAINING THE BOARD.

(3) FUNDS TO COVER THE COMPENSATION AND EXPENSES OF THE BOARD MEMBERS SHALL BE GENERATED BY FEES SET UNDER THIS SECTION.

~~(b) The Board shall pay all funds collected under this title into the General Fund of this State.~~

(D) (1) THE BOARD SHALL REMIT ALL FEES COLLECTED UNDER THIS TITLE TO THE COMPTROLLER.

(2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE FUND.

(E) (1) THE FUND SHALL BE USED TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE BOARD AS PROVIDED UNDER THIS ARTICLE.

(2) THE FUND IS A CONTINUING, NONLAPSING FUND AND IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(3) ANY UNSPENT PORTIONS OF THE FUND MAY NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN THE FUND TO BE USED FOR THE PURPOSES SPECIFIED IN THIS ARTICLE.

(4) NO OTHER STATE MONEY MAY BE USED TO SUPPORT THE FUND.

(F) (1) A DESIGNEE OF THE BOARD SHALL ADMINISTER THE FUND.

(2) MONEY IN THE FUND MAY BE EXPENDED ONLY FOR ANY LAWFUL PURPOSE AUTHORIZED UNDER THIS ARTICLE.

(G) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

21-207.

A person shall have the immunity from liability described under § 5-702 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

Subtitle 3. Licensing.

21-301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice as an environmental [sanitarian] **HEALTH SPECIALIST** in this State.

(b) This section does not apply to:

(1) [A sanitarian-in-training] **AN ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING AS PROVIDED FOR UNDER § 21-305 OF THIS SUBTITLE;**

(2) A student participating in a field experience as part of an educational program; **AND**

(3) [An applicant for licensure in accordance with § 11-304(b)(5) of this subtitle; and

(4)] A qualified individual in any of the following job classifications:

(i) Industrial hygienists as defined by the American Industrial Hygiene Association;

(ii) Certified industrial hygienists and industrial hygienists in training as defined by the American Board of Industrial Hygiene;

(iii) Health planners or natural resource planners;

(iv) Building and housing inspectors;

(v) Geologists;

(vi) Chemists;

(vii) Meteorologists;

(viii) Laboratory scientists;

(ix) Professional engineers who are licensed in this State under Title 14 of the Business Occupations and Professions Article and whose **NORMAL** professional activities are [normally included] **AMONG THE ACTIVITIES SPECIFIED** in [§ 11-101(e)] **§ 21-101(I)** of this title;

(x) Public health engineers and water resources engineers employed by the State or a local subdivision;

(xi) Hydrographers and hydrographic engineers;

(xii) Natural resources managers;

(xiii) Natural resources biologists;

(xiv) Program administrators, administration directors, administrators, administrative officers, and administrative specialists;

(xv) Paraprofessional personnel, aides, and technicians whose routine duties include monitoring, sampling, and recording of data;

(xvi) Persons employed by the Department of Natural Resources or related county departments who perform duties and responsibilities under the Natural Resources Article;

(xvii) Persons employed by the Department of the Environment or related county departments who perform duties and responsibilities for ~~erosion~~;

1. EROSION and sediment control, stormwater management, or oil pollution control under Title 4 of [this article] THE ENVIRONMENT ARTICLE;

~~(xviii) Persons employed by the Department of the Environment or related county departments who perform duties and responsibilities for ambient air monitoring under Title 2 of [this article] THE ENVIRONMENT ARTICLE or for motor~~

2. MOTOR vehicle pollution control under Title 2 of [this article] THE ENVIRONMENT ARTICLE or Title 23 of the Transportation Article; OR

3. SEWAGE SLUDGE, WATER POLLUTION CONTROL, OR DRINKING WATER UNDER TITLE 9 OF THE ENVIRONMENT ARTICLE;

(XVIII) PERSONS EMPLOYED BY THE DEPARTMENT OF THE ENVIRONMENT AND CLASSIFIED AS EITHER:

1. A REGULATORY AND COMPLIANCE ENGINEER OR ARCHITECT; OR

2. AN ENVIRONMENTAL COMPLIANCE SPECIALIST;

(xix) Persons employed by the Division of Labor and Industry of the Department of Labor, Licensing, and Regulation who perform duties and responsibilities under the Maryland Occupational Safety and Health Act;

(xx) Occupational safety and health technologists as defined by the American Board of Industrial Hygiene and the Board of Certified Safety Professionals;

(xxi) Safety professionals as defined by the American Society of Safety Engineers;

(xxii) Certified safety professionals and associate safety professionals as defined by the Board of Certified Safety Professionals;

(xxiii) Persons employed by industrial operations whose environmental services are performed solely for their employer; and

(xxiv) State milk safety inspectors performing duties under the National Conference on Interstate Milk Shipments and employed by the Department [of Health and Mental Hygiene].

21-302.

To apply for licensure **AS AN ENVIRONMENTAL HEALTH SPECIALIST**, an applicant shall:

(1) Submit an application to the Board on the form that the Board requires;

(2) (i) Submit verification from the applicant's employer or supervisor on forms required by the Board that the applicant has successfully completed [a sanitarian-in-training] **AN ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING** program; or

(ii) Provide independent written verification from the applicant's employer or any prior work experience in the field of environmental health used by the applicant to satisfy the [sanitarian-in-training] **ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING** requirement of this title; and

(3) Pay to the Board the required [application and examination fee] **FEES** set by the Board.

21-303.

(a) To qualify for licensure under this title, an applicant shall meet the requirements of this section.

(B) THE APPLICANT MUST BE OF GOOD MORAL CHARACTER.

(C) THE APPLICANT MUST BE AT LEAST 18 YEARS OLD.

[(b)] (D) An applicant shall be licensed by the Board if the applicant:

(1) Qualifies for the examination required under **[§ 11–304] § 21–304** of this subtitle; and

(2) Takes and attains a passing score on the examination.

[(c)] An applicant employed as an environmental sanitarian on or before June 30, 1985 may be licensed without taking the examination required under this section if the applicant meets the educational and training requirements set forth in § 11–304 of this subtitle and the applicant applied for licensure to the Board before July 1, 1994.

[(d)] (E) The Board may waive any examination requirement under this section if the Board considers the applicant to be recognized as outstanding in the field of environmental health.

21–304.

(a) An applicant who otherwise qualifies for licensure is entitled to be examined as provided in this section.

(b) An applicant qualifies to take the examination if the applicant:

(1) (i) Has graduated from an accredited college or university with a baccalaureate degree in environmental science or environmental health; and

(ii) Has obtained 12 months of experience in **[a sanitarian–in–training] AN ENVIRONMENTAL HEALTH SPECIALIST–IN–TRAINING** program approved by the Board; **[or]**

(2) (i) Has graduated from an accredited college or university with a baccalaureate degree in the physical, biological, or environmental sciences including:

1. A minimum of 60 semester credit hours or the equivalent quarter credit hours of physical, biological, and environmental sciences acceptable to the Board which includes at least **[1] ONE** laboratory course in **[2] TWO** of the following fields: **[chemistry, physics, and biology]**

A. CHEMISTRY;

B. PHYSICS; AND**C. BIOLOGY; and**

2. A course in mathematics; and

(ii) Has obtained 12 months of experience in [a sanitarian-in-training] **AN ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING** program approved by the Board; [or]

(3) (i) Has graduated from an accredited college or university with a baccalaureate degree that includes:

1. 30 semester credit hours or the equivalent [in] quarter [units] **CREDIT HOURS** in the physical, biological, and environmental sciences acceptable to the Board, which includes at least [1] **ONE** laboratory course in [2] **TWO** of the following fields: [chemistry, physics, and biology]

A. CHEMISTRY;**B. PHYSICS; AND****C. BIOLOGY; and**

2. A course in mathematics; and

(ii) Has obtained 24 months of experience in [a sanitarian-in-training] **AN ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING** program approved by the Board; or

(4) Has graduated from an accredited college or university with a master's degree in public or environmental health science that includes:

(i) 30 semester [units] **CREDIT HOURS** or 45 quarter [units] **CREDIT HOURS** of physical, biological, or environmental sciences acceptable to the Board, which includes at least [1] **ONE** laboratory course in [2] **TWO** of the following fields: [biology, chemistry, and physics]

1. CHEMISTRY;**2. PHYSICS; AND****3. BIOLOGY;**

(ii) A course in mathematics; and

(iii) 3 months of internship approved by the Board if not previously completed]; or

(5) (i) Has obtained at least 10 years of experience in the field of environmental health acceptable to the Board and the applicant applied for licensure to the Board before July 1, 1995; and

(ii) Takes and passes the examination within 2 years of application for licensure].

(c) (1) THIS SUBSECTION DOES NOT ALTER THE REQUIREMENT THAT AN APPLICANT DEMONSTRATE COMPLETION OF A BACCALAUREATE OR MASTER'S DEGREE TO QUALIFY FOR EXAMINATION.

(2) THE BOARD MAY WAIVE ANY OF THE SPECIFIC COURSE REQUIREMENTS FOR AN APPLICANT TO QUALIFY FOR EXAMINATION IN SUBSECTION (B) OF THIS SECTION IF THE BOARD DETERMINES THAT AN APPLICANT:

(i) HAS OBTAINED AN EQUIVALENT NUMBER OF CREDIT HOURS IN A COURSE RELEVANT TO PRACTICE AS AN ENVIRONMENTAL HEALTH SPECIALIST; OR

(ii) HAS WORK EXPERIENCE THAT IS AN ACCEPTABLE SUBSTITUTE FOR A COURSE REQUIRED IN SUBSECTION (B) OF THIS SECTION.

(3) THE BOARD MAY WAIVE THE EXPERIENCE REQUIREMENT IN SUBSECTION (B)(3)(II) OF THIS SECTION IF THE BOARD DETERMINES THAT AN APPLICANT:

(i) HAS OBTAINED AT LEAST 12 MONTHS OF EXPERIENCE IN AN ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING PROGRAM; AND

(ii) HAS THE WRITTEN SUPPORT OF THE APPLICANT'S EMPLOYER.

(D) The examination shall include a written examination in the physical, biological, and environmental sciences that relates to practices and principles of environmental health.

[(d)] (E) The Board shall give examinations to applicants at least once a year, at the times and places that the Board determines.

[(e)] (F) The Board shall notify each qualified applicant of the time and place of examination.

[(f)] (G) (1) Except as otherwise provided in this subtitle, the Board shall determine the subjects, scope, form, and passing score for examinations given under this subtitle.

(2) The Board shall use professional examinations prepared by recognized examination agencies.

(3) Examination papers shall identify the applicant only by a number assigned by the Board secretary.

[(g)] (H) Examination papers shall be filed with the Board secretary and kept at least 1 year.

[(h)] (I) (1) An applicant who fails an examination may retake the examination as provided in the rules and regulations adopted by the Board.

(2) An applicant for reexamination shall:

(i) Submit to the Board an application on the form the Board requires; and

(ii) Pay to the Board a reexamination fee set by the Board.

[(i)] (J) Unless authorized by the Board, the consumer [member] **MEMBERS** of the Board may not participate in any activity related to examinations under this subtitle.

21-305.

The Board shall adopt regulations that include:

(1) The establishment of [a sanitarian-in-training] **AN ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING** program for applicants to obtain the necessary experience to qualify to take the examination; and

(2) A condition that a person may not participate in [a sanitarian-in-training] **AN ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING** program for more than 3 years, unless [approved] **GRANTED AN EXTENSION** by the Board.

21-306.

(a) Subject to the provisions of this section, the Board may make a reciprocal agreement with any other state to waive any examination requirement of this title for an applicant who is licensed as [a registered] AN environmental [sanitarian] **HEALTH SPECIALIST** or its equivalent in that state.

(b) An agreement made under this section may allow the Board to grant a waiver only if the applicant:

(1) Pays the application fee required by [§ 11–302] **§ 21–302** of this subtitle; and

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title; and

(ii) Became licensed in the other state after passing in that or any other state an examination that is similar to the examination for which the applicant is seeking the waiver.

(c) An agreement may be made with another state under this section only if, under the agreement, the other state waives the examination of [registered] **LICENSED** environmental [sanitarians] **HEALTH SPECIALISTS** of this State to a similar extent as this State waives the examination requirements for individuals licensed in that state.

21–307.

(a) The Board shall license and issue the appropriate licensure to any applicant who meets the requirements of this title.

(b) The Board shall include on each license that it issues:

(1) The designation [“registered environmental sanitarian”] **“LICENSED ENVIRONMENTAL HEALTH SPECIALIST”**;

(2) The name of the license holder;

(3) The date of issue and serial number of the license;

(4) The Board seal; and

(5) The signature of the Board’s representative.

(c) The Board shall issue a new license to replace a lost, destroyed, or mutilated license if the license holder pays a fee that is set by the Board.

21-308.

Licensure authorizes an individual to practice as an environmental [sanitarian] **HEALTH SPECIALIST** while the license is in effect.

21-309.

(a) A license expires on the date specified on the license, unless it is renewed for a 2-year term as provided in this section.

(b) At least 1 month before the license expires, the Board shall send to the licensee, by first-class mail **OR ELECTRONIC MEANS** to the last known address **OR ELECTRONIC MAIL ADDRESS** of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires;

(3) The amount of the renewal fee; and

(4) The hours of approved training required for renewal of licensure.

(c) Before the license expires, the licensee may renew it for an additional 2-year term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board the renewal fee set by the Board;

(3) Submits to the Board a renewal application on the form that the Board requires; and

(4) Submits to the Board proof that during the previous 2-year period, the licensee has acquired 20 hours of approved training in environmental health or other equivalent education as approved by the Board.

(d) The renewal license shall bear the same serial number assigned to the licensee at the time of the original registration or licensure.

21-310.

The Board shall reinstate the license of a [registered] **LICENSED** environmental [sanitarian] **HEALTH SPECIALIST** who has failed to renew the license for any reason if the [registered] **LICENSED** environmental [sanitarian] **HEALTH SPECIALIST**:

- (1) Pays the Board all lapsed renewal fees and demonstrates that training as required by the Board has been completed;
- (2) Reapplies and meets the qualifications and requirements for licensure; and
- (3) Pays to the Board a reinstatement fee set by the Board.

21-311.

- (a) The Board shall keep a current record of each application for licensure.
- (b) The record shall include:
 - (1) The name, residence address, and age of each applicant;
 - (2) The name and address of the applicant's employer;
 - (3) The date of the application;
 - (4) Complete information on the education and experience qualifications of each applicant;
 - (5) The date the Board reviewed and acted on the application;
 - (6) The action taken by the Board on the application;
 - (7) The serial number of any registration or license issued to the applicant; and
 - (8) Any other information that the Board considers necessary.

21-312.

- (a) The Board shall adopt a code of ethics designed to protect the public's interest.
- (b) Subject to the hearing provisions of ~~§ 11-313~~ **§ 21-313** of this subtitle, the Board, on the affirmative vote of a majority of its full authorized membership, may deny any applicant licensure, reprimand any licensee, or place any individual who is licensed on probation, or suspend or revoke a license, if the applicant or licensee:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or license holder or another;

- (2) Fraudulently or deceptively uses a license;
- (3) Knowingly violates any provision of this title, or any rule or regulation adopted under this title;
- (4) Commits any gross negligence, incompetence, or misconduct while performing the duties of an environmental [sanitarian] **HEALTH SPECIALIST**;
- (5) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
- (6) Provides professional services while:
 - (i) Under the influence of alcohol; or
 - (ii) Using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (7) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;
- (8) Willfully makes or files a false report or record while performing the duties of an environmental [sanitarian] **HEALTH SPECIALIST**;
- (9) Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;
- (10) Submits a false statement to collect a fee;
- (11) Promotes the sale of land, devices, appliances, or goods provided for a person in such a manner as to exploit the person for financial gain of the [registered] **LICENSED** environmental [sanitarian] **HEALTH SPECIALIST**;
- (12) Willfully alters a sample, specimen, or any test procedure to cause the results upon analysis to represent a false finding;
- (13) Violates any rule or regulation adopted by the Board;
- (14) Uses or promotes or causes the use of any misleading, deceiving, or untruthful advertising matter, promotional literature, or testimonial; [or]
- (15) Is professionally, physically, or mentally incompetent; **OR**

(16) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED BY THE BOARD.

(c) Except as provided in subsection (d) of this section, any person, including a Board employee, may make a written, specific charge of a violation under this section, if the person:

- (1) Swears to the charge; and
- (2) Files the charge with the Board secretary.

(d) (1) If a [registered] **LICENSED** environmental [sanitarian] **HEALTH SPECIALIST** knows of an action or condition that might be grounds for action under subsection (b) of this section, the [registered] **LICENSED** environmental [sanitarian] **HEALTH SPECIALIST** shall report the action or condition to the Board; and

(2) An individual shall have the immunity from liability described under § 5–702 of the Courts and Judicial Proceedings Article for making a report as required by this subsection.

21–313.

(a) (1) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under [§ 11–312] **§ 21–312** of this subtitle, it shall give the individual against whom this action is contemplated an opportunity for a hearing before the Board.

(2) A hearing shall be held within a reasonable time not to exceed 6 months after charges have been brought.

(b) The Board shall give notice and hold the hearing in accordance with the Administrative Procedure Act.

(c) [At least 30 days before the hearing, the hearing notice to be given to the individual shall be served in accordance with § 1–204 of this article.

(d)] The individual may be represented at the hearing by counsel.

[(e)](D) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

[(f)](E) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then,

on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

[(g)](F) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

(G) (1) THE BOARD SHALL MAINTAIN A RECORD OF ALL DISCIPLINARY MATTERS THAT INCLUDES:

(I) THE DATE THE MATTER WAS REFERRED TO THE BOARD;

(II) A DETAILED DESCRIPTION OF THE SPECIFIC ALLEGATIONS;

(III) A COPY OF ANY WRITTEN EVIDENCE REVIEWED BY THE BOARD IN EVALUATING THE MATTER; AND

(IV) A WRITTEN SUMMARY OF THE FINAL ACTION OF THE BOARD INCLUDING THE DATE OF THE ACTION AND THE BASIS FOR THE ACTION.

(2) THE BOARD SHALL MAINTAIN AN ELECTRONIC DATABASE OF ALL DISCIPLINARY MATTERS CONSIDERED BY THE BOARD THAT IS SEARCHABLE, AT A MINIMUM, BY:

(I) THE DATE OF THE BOARD'S FINAL ACTION;

(II) THE NAME OF THE AFFECTED LICENSEE; AND

(III) THE TYPE OF FINAL ACTION TAKEN BY THE BOARD, INCLUDING NO ACTION.

21-314.

Except as provided in this section for an action under [§ 11-312] **§ 21-312** of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in § 10-202 of the State Government Article, may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

21-315.

The Board, on the affirmative vote of a majority of its full [authorized] **APPOINTED** membership, may reinstate the license of an individual whose license has been revoked.

Subtitle 4. Prohibited Acts; Penalties.

21-401.

(a) Except as otherwise provided in this title, unless a person is licensed under this title, the person may not practice as an environmental [sanitarian] **HEALTH SPECIALIST**.

(b) Unless a person is licensed under this title, the person may not use the title ["registered environmental sanitarian"] **"ENVIRONMENTAL HEALTH SPECIALIST" OR "LICENSED ENVIRONMENTAL HEALTH SPECIALIST"** or the initials ["R.S."] **"E.H.S." OR "L.E.H.S."** after the name of the person or any other title with the intent to represent that the person is licensed to practice as an environmental [sanitarian] **HEALTH SPECIALIST**.

21-402.

A person who violates any provision of [§ 11-301] **§ 21-301** of this title or [§ 11-401] **§ 21-401** of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding [\$100] **\$5,000** or imprisonment not exceeding [60 days] **2 YEARS** or both.

Subtitle 5. Short Title; Termination of Title.

21-501.

This title may be cited as the "Maryland Environmental [Sanitarian] **HEALTH SPECIALISTS Act**".

21-502.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, the provisions of this title and of any rule or regulation adopted under this title shall terminate and be of no effect after [July 1, 2013] **JULY 1, 2017**.

Article – State Government

8-403.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(22) Environmental [Sanitarians] **HEALTH SPECIALISTS**, State Board of ([§ 11–201] **§ 21–201** of the [Environment] **HEALTH OCCUPATIONS** Article: July 1, [2012] **2016**);

SECTION 3. AND BE IT FURTHER ENACTED, That a member of the State Board of Environmental Sanitarians who is serving on the Board before July 1, 2012, shall continue to serve on the State Board of Environmental Health Specialists for the remainder of the member's term and that the provisions of § 21–202 of the Health Occupations Article, as enacted by Section 2 of this Act, shall apply to any vacancy on the Board on or after July 1, 2012.

SECTION 4. AND BE IT FURTHER ENACTED, That, on July 1, 2012, all the functions, powers, duties, assets, liabilities, and records of the State Board of Environmental Sanitarians shall be transferred to the State Board of Environmental Health Specialists.

SECTION 5. AND BE IT FURTHER ENACTED, That, on July 1, 2012, an individual who holds a license to practice as an environmental sanitarian issued by the State Board of Environmental Sanitarians in all respects shall be considered licensed by the State Board of Environmental Health Specialists and, subject to the provisions of this Act, for the remainder of the term of the individual's license. On expiration of the individual's license, the individual may qualify for renewal of a license under § 21–309 of the Health Occupations Article, as enacted by Section 2 of this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That, if on or after July 1, 2012, an individual holds a license issued by the State Board of Environmental Sanitarians and the individual fails to timely renew the license, the individual may qualify for reinstatement of the license under § 21–310 of the Health Occupations Article, as enacted by Section 2 of this Act.

SECTION 7. AND BE IT FURTHER ENACTED, That each certificate of eligibility and sanitarian-in-training certificate issued by the State Board of Environmental Sanitarians prior to July 1, 2012, in all respects, shall be considered issued by the State Board of Environmental Health Specialists and, subject to the provisions of this Act, remain valid for the remainder of the term of the certificate. On expiration of the certificate, the certificate holder may qualify for renewal of the certificate as provided in regulations adopted by the State Board of Environmental Health Specialists, as enacted by this Act.

SECTION 8. AND BE IT FURTHER ENACTED, That ~~it is the intent of the General Assembly that the Department of the Environment and the Department of Health and Mental Hygiene cooperate to ensure adequate funding for the State Board of Environmental Health Specialists during fiscal 2013, including a supplemental budget request if necessary, notwithstanding the provisions of § 21–206(d)(4) of the Health Occupations Article, as enacted by Section 2 of this Act, the Department of~~

Health and Mental Hygiene shall ensure adequate funding for the State Board of Environmental Health Specialists during fiscal year 2013, and may transfer funds to the Board from another board with adequate reserve funds as determined by and at the discretion of the Secretary of Health and Mental Hygiene, to be repaid in full during fiscal year 2014.

SECTION 9. AND BE IT FURTHER ENACTED, That:

(a) To ensure that individuals performing similar duties related to protecting public health are regulated uniformly, the State Board of Environmental Health Specialists, in consultation with the Maryland Association of County Health Officers and the Maryland Conference of Local Environmental Health Directors, shall develop recommendations about revising existing statutory exemptions from the requirement to be licensed to practice as an environmental sanitarian based on job duties.

(b) On or before October 1, 2013, the State Board of Environmental Health Specialists shall report its recommendations under subsection (a) of this section to the General Assembly.

SECTION 10. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the State Board of Environmental Health Specialists implement the measures outlined by the Department of Legislative Services in Chapter 5 of the November 2011 publication "Sunset Review: Evaluation of the State Board of Environmental Sanitarians" relating to the transfer of the Board of Environmental Sanitarians to the Department of Health and Mental Hygiene.

SECTION 11. AND BE IT FURTHER ENACTED, That the State Board of Environmental Health Specialists shall adopt regulations to:

(a) Align the minimum score required to pass the qualifying examination offered by the National Environmental Health Association with the passing score that is set by the National Environmental Health Association;

(b) Repeal the requirement for applicants for licensure to submit a study plan after three attempts to pass the qualifying examination; and

(c) Set forth the Board's requirements related to continuing education.

SECTION 12. AND BE IT FURTHER ENACTED, That:

(a) The provisions of § 8-404 of the State Government Article requiring a preliminary evaluation do not apply to the State Board of Environmental Health Specialists before the evaluation required on or before July 1, 2016.

(b) As part of the evaluation of the Board to be conducted on or before July 1, 2016, the Department of Legislative Services shall examine the potential to institute a

mandatory reporting requirement for employers that complements the Board's disciplinary policy.

SECTION 13. AND BE IT FURTHER ENACTED, That:

(a) All laws or parts of laws, public general or public local, inconsistent with this Act are repealed to the extent of the inconsistency.

(b) The State Board of Environmental Health Specialists shall repeal the regulations of the State Board of Environmental Sanitarians that are inconsistent with this Act.

SECTION 14. AND BE IT FURTHER ENACTED, That the publishers of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act or any other Act of the General Assembly of 2012 that affects provisions enacted by this Act. The publishers shall adequately describe any such correction in an editor's note following the section affected.

SECTION 15. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.