

SENATE BILL 854

M3, M1

3lr2781

By: **Senator Edwards**

Introduced and read first time: February 7, 2013

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Gas and Oil Drilling – Financial Assurance**

3 FOR the purpose of requiring a certain permit application to include a certain closure
4 cost estimate; repealing certain bonding requirements for certain permits;
5 requiring a holder of a permit to drill for gas or oil to comply with certain
6 requirements under certain circumstances; requiring a certain permit holder to
7 provide certain financial assurance in accordance with certain requirements;
8 clarifying a certain requirement for a certain permit holder to obtain and keep
9 in effect certain comprehensive general liability insurance coverage in
10 accordance with certain requirements; requiring a holder of a certain permit to
11 obtain and keep certain environmental pollution liability insurance in
12 accordance with certain requirements; requiring certain environmental
13 pollution liability insurance to be maintained for a certain number of years
14 under certain circumstances; requiring a certain permit holder's financial
15 assurance to extend to certain owners and to cover certain acts and omissions;
16 enabling certain permit applicants to offer, and the Department to authorize,
17 certain alternative means for demonstrating financial assurance; providing that
18 a certain permit or the transfer of a certain permit may not become effective
19 until the financial assurance requirements of this Act have been satisfied;
20 providing that the proceeds from certain financial assurance shall be deposited
21 in the Oil and Gas Fund; and generally relating to financial assurance for gas
22 and oil drilling.

23 BY repealing and reenacting, with amendments,
24 Article – Environment
25 Section 14–105(a), 14–108, 14–111, and 14–122
26 Annotated Code of Maryland
27 (2007 Replacement Volume and 2012 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Environment**

2 14–105.

3 (a) **(1)** An applicant for a permit to drill a well under § 14–104 of this
4 subtitle shall submit an application in a manner satisfactory to the Department.5 **(2) THE APPLICATION FOR A PERMIT TO DRILL A WELL UNDER §**
6 **14–104 OF THIS SUBTITLE AND EACH APPLICATION FOR A PERMIT RENEWAL**
7 **SHALL INCLUDE A CLOSURE COST ESTIMATE FOR THE PROPER SEALING AND**
8 **PLUGGING OF THE GAS OR OIL WELL AND RECLAMATION OF THE SITE.**

9 14–108.

10 **[(a)]** The Department shall deny the permit if the Department determines
11 that:12 (1) The proposed operation shall violate a requirement of this subtitle
13 or a regulation adopted under this subtitle;14 (2) The proposed drilling or well operation poses a substantial threat
15 to public safety or a risk of significant adverse environmental impact to, but not
16 limited to, the following:

17 (i) The Chesapeake Bay;

18 (ii) The Chesapeake Bay Critical Area;

19 (iii) Tidal or nontidal wetlands;

20 (iv) Endangered or threatened species, species in need of
21 conservation, or the habitat of any of them;22 (v) Historic properties under § 5A–326 of the State Finance and
23 Procurement Article;

24 (vi) Populated areas;

25 (vii) Freshwater, estuarine, or marine fisheries; or

26 (viii) Other significant natural resources;

27 (3) The applicant has failed to receive applicable permits or approvals
28 for the operation from all State and local regulatory units responsible for air and
29 water pollution, sediment control, and zoning;

1 (4) The operation will constitute a significant physical hazard to a
2 neighboring dwelling unit, school, church, hospital, commercial or industrial building,
3 public road, or other public or private property in existence at the time of the
4 application for the permit;

5 (5) The operation will have a significant adverse effect on the uses of a
6 publicly owned park, forest, or recreation area in existence at the time of the
7 application for the permit; or

8 (6) The applicant has not corrected any violations committed by the
9 applicant under any prior permit.

10 [(b) A permit may not become effective until a bond has been deposited with
11 the Department under § 14–111 of this subtitle.]

12 14–111.

13 (a) Every holder of a permit to drill for gas or oil shall:

14 (1) Submit a completion report on forms to be supplied by the
15 Department within 30 days after the drilling of a well has been completed;

16 (2) Submit cutting samples at the request of the Department;

17 (3) Notify the Department when a well is about to be abandoned;

18 (4) [Seal and plug the well in a manner approved by the Department]
19 **COMPLY WITH ALL THE REQUIREMENTS OF THIS SUBTITLE, INCLUDING THE**
20 **PROPER SEALING AND PLUGGING OF A GAS OR OIL WELL AND RECLAMATION OF**
21 **THE SITE;**

22 (5) [Post a performance bond to the State in the amount not to exceed
23 \$100,000 for each oil or gas well, and not to exceed \$500,000 as a blanket bond for all
24 of the permit holder's oil or gas wells, with good and sufficient surety, as provided in
25 subsection (d)(1) of this section, conditioned upon compliance with the provisions of
26 this subtitle] **PROVIDE FINANCIAL ASSURANCE OF AT LEAST \$50,000 FOR EACH**
27 **GAS OR OIL WELL, INCLUDING EACH WELL ON A MULTIWELL PAD, BUT NOT LESS**
28 **THAN THE MOST RECENT CLOSURE COST ESTIMATE PROVIDED BY THE PERMIT**
29 **HOLDER UNDER § 14–105(A) OF THIS SUBTITLE;**

30 (6) Obtain and keep in effect **COMPREHENSIVE GENERAL** liability
31 insurance coverage in an amount not less than \$300,000 for each person and \$500,000
32 for each occurrence or accident to pay damages for injury to [persons] **THIRD**
33 **PARTIES** or damage to property caused by [the drilling, production operations, or
34 plugging of all of the permit holder's gas or oil wells in the State] **SUDDEN**

1 ACCIDENTAL OCCURRENCES ARISING FROM, OR IN SUPPORT OF, THE
2 ACTIVITIES AUTHORIZED BY A PERMIT ISSUED UNDER § 14-104 OF THIS
3 SUBTITLE, INCLUDING THE COSTS AND EXPENSES INCURRED IN THE
4 INVESTIGATION, DEFENSE, OR SETTLEMENT OF CLAIMS; [and]

5 (7) OBTAIN AND KEEP IN EFFECT ENVIRONMENTAL POLLUTION
6 LIABILITY INSURANCE IN AN AMOUNT NOT LESS THAN \$1,000,000 PER LOSS FOR
7 BODILY INJURY AND PROPERTY DAMAGE TO THIRD PARTIES AND NATURAL
8 RESOURCE DAMAGE, INCLUDING THE COSTS OF CLEANUP AND REMEDIATION,
9 CAUSED BY THE SUDDEN OR NONSUDDEN RELEASE OF POLLUTANTS ARISING
10 FROM, OR IN SUPPORT OF, THE ACTIVITIES AUTHORIZED BY A PERMIT ISSUED
11 UNDER § 14-104 OF THIS SUBTITLE, INCLUDING THE COSTS AND EXPENSES
12 INCURRED IN THE INVESTIGATION, DEFENSE, OR SETTLEMENT OF CLAIMS;

13 (8) IN THE EVENT OF AN ASSIGNMENT OR TRANSFER OF A
14 PERMIT, MAINTAIN THE EXISTING FINANCIAL ASSURANCE REQUIRED UNDER
15 THIS SECTION UNTIL REPLACEMENT FINANCIAL ASSURANCE IS APPROVED BY
16 THE DEPARTMENT; AND

17 [(7)] (9) Notify the Department of the location of the equipment
18 required by regulation for the prevention and containment of gas leaks and oil spills.

19 (B) THE ENVIRONMENTAL POLLUTION LIABILITY INSURANCE
20 REQUIRED UNDER SUBSECTION (A)(7) OF THIS SECTION SHALL BE MAINTAINED
21 FOR 5 YEARS AFTER THE DEPARTMENT DETERMINES THAT:

22 (1) THE WELL HAS BEEN PROPERLY SEALED AND PLUGGED; AND

23 (2) THE SITE HAS BEEN RECLAIMED.

24 (C) THE PERMIT HOLDER'S FINANCIAL ASSURANCE REQUIRED UNDER
25 SUBSECTION (A) OF THIS SECTION SHALL:

26 (1) EXTEND TO THE OWNER OR OWNERS OF THE SURFACE AND
27 SUBSURFACE PROPERTY; AND

28 (2) COVER THE ACTS AND OMISSIONS OF THE PERMIT HOLDER'S
29 CONTRACTORS AND SUBCONTRACTORS DURING THEIR ACTIVITIES IN
30 CONNECTION WITH THE DRILLING, OPERATION, AND CLOSURE OF THE WELL.

31 [(b)] (D) The Department may adopt regulations to:

1 **(1) [increase] INCREASE** the minimum amounts of [liability insurance
2 coverage] **FINANCIAL ASSURANCE REQUIRED** under subsection (a)[(6)] of this
3 section; **AND**

4 **(2) ENABLE PERMIT APPLICANTS TO OFFER, AND THE**
5 **DEPARTMENT TO AUTHORIZE, ALTERNATIVE MEANS FOR DEMONSTRATING**
6 **FINANCIAL ASSURANCE, INCLUDING:**

7 **(I) A PERFORMANCE BOND;**

8 **(II) A BLANKET BOND;**

9 **(III) CASH;**

10 **(IV) A CERTIFICATE OF DEPOSIT;**

11 **(V) A LETTER OF CREDIT;**

12 **(VI) SELF-INSURANCE;**

13 **(VII) A CORPORATE GUARANTEE; OR**

14 **(VIII) ANY OTHER SURETY THE DEPARTMENT DETERMINES**
15 **TO BE GOOD AND SUFFICIENT.**

16 **[(c) (E)]** The Department shall adopt regulations requiring each holder of a
17 permit to drill for gas or oil to have equipment available for the prevention and
18 containment of gas leaks and oil spills.

19 **[(d)]** A holder of a permit to drill for gas or oil may:

20 (1) Post the performance bond under subsection (a)(5) of this section
21 in:

22 (i) Cash;

23 (ii) Certificates of deposit;

24 (iii) Letters of credit from any bank or other savings institution;

25 or

26 (iv) Any other good and sufficient security; and

27 (2) Provide for the holder's own liability insurance under subsection
28 (a)(6) of this section.]

1 **(F) A PERMIT OR THE TRANSFER OF A PERMIT MAY NOT BECOME**
2 **EFFECTIVE UNTIL THE FINANCIAL ASSURANCE REQUIREMENTS OF THIS**
3 **SECTION HAVE BEEN SATISFIED.**

4 14–122.

5 (a) There is an Oil and Gas Fund.

6 (b) The Fund consists of:

7 (1) Fees collected by the Department under § 14–105 of this subtitle;

8 (2) Funds appropriated by the General Assembly for deposit to the
9 Fund;

10 (3) Fines and [bond forfeitures] **PROCEEDS FROM FINANCIAL**
11 **ASSURANCE INSTRUMENTS** collected by the Department in accordance with this
12 subtitle that exceed the amount necessary to restore a site; and

13 (4) Any additional money made available from any sources, public or
14 private, for the purposes for which the Fund has been established.

15 (c) (1) The Fund is a special, nonlapsing fund that is not subject to §
16 7–302 of the State Finance and Procurement Article.

17 (2) Notwithstanding any law to the contrary, unused money in the
18 Fund may not revert to the General Fund.

19 (d) The Fund shall be maintained and administered by the Department in
20 accordance with the provisions of this subtitle and any regulations the Department
21 adopts.

22 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
23 **October 1, 2013.**