

SENATE BILL 854

M3, M1

3lr2781

By: **Senator Edwards**

Introduced and read first time: February 7, 2013

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 14, 2013

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 2013

CHAPTER _____

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 requiring a certain permit holder that has a well in existence on or before a
17 certain date to provide certain financial assurance by maintaining certain
18 performance bond and liability insurance requirements; requiring a certain
19 permit holder that has a well in existence on or before a certain date that is
20 modified after a certain date to provide certain financial assurance in
21 accordance with certain requirements; enabling certain permit applicants to
22 offer, and the Department to authorize, certain alternative means for
23 demonstrating financial assurance; authorizing the Department to adopt
24 regulations establishing alternative financial assurance requirements for

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 certain wells; providing that a certain permit or the transfer of a certain permit
2 may not become effective until the financial assurance requirements of this Act
3 have been satisfied; providing that the proceeds from certain financial
4 assurance shall be deposited in the Oil and Gas Fund; and generally relating to
5 financial assurance for gas and oil drilling.

6 BY repealing and reenacting, with amendments,
7 Article – Environment
8 Section 14–105(a), 14–108, 14–111, and 14–122
9 Annotated Code of Maryland
10 (2007 Replacement Volume and 2012 Supplement)

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

13 **Article – Environment**

14 14–105.

15 (a) (1) An applicant for a permit to drill a well under § 14–104 of this
16 subtitle shall submit an application in a manner satisfactory to the Department.

17 (2) **THE APPLICATION FOR A PERMIT TO DRILL A WELL UNDER §**
18 **14–104 OF THIS SUBTITLE AND EACH APPLICATION FOR A PERMIT RENEWAL**
19 **SHALL INCLUDE A CLOSURE COST ESTIMATE FOR THE PROPER SEALING AND**
20 **PLUGGING OF THE GAS OR OIL WELL AND RECLAMATION OF THE SITE.**

21 14–108.

22 [(a)] The Department shall deny the permit if the Department determines
23 that:

24 (1) The proposed operation shall violate a requirement of this subtitle
25 or a regulation adopted under this subtitle;

26 (2) The proposed drilling or well operation poses a substantial threat
27 to public safety or a risk of significant adverse environmental impact to, but not
28 limited to, the following:

29 (i) The Chesapeake Bay;

30 (ii) The Chesapeake Bay Critical Area;

31 (iii) Tidal or nontidal wetlands;

1 (iv) Endangered or threatened species, species in need of
2 conservation, or the habitat of any of them;

3 (v) Historic properties under § 5A–326 of the State Finance and
4 Procurement Article;

5 (vi) Populated areas;

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

7 (viii) Other significant natural resources;

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

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

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

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

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

22 14–111.

23 (a) ~~Every~~ **EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,**
24 **EVERY** holder of a permit to drill for gas or oil shall:

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

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

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

29 (4) [Seal and plug the well in a manner approved by the Department]
30 **COMPLY WITH ALL THE REQUIREMENTS OF THIS SUBTITLE, INCLUDING THE**

1 **PROPER SEALING AND PLUGGING OF A GAS OR OIL WELL AND RECLAMATION OF**
2 **THE SITE;**

3 (5) [Post a performance bond to the State in the amount not to exceed
4 \$100,000 for each oil or gas well, and not to exceed \$500,000 as a blanket bond for all
5 of the permit holder's oil or gas wells, with good and sufficient surety, as provided in
6 subsection (d)(1) of this section, conditioned upon compliance with the provisions of
7 this subtitle] **PROVIDE FINANCIAL ASSURANCE OF AT LEAST \$50,000 FOR EACH**
8 **GAS OR OIL WELL, INCLUDING EACH WELL ON A MULTIWELL PAD, BUT NOT LESS**
9 **THAN THE MOST RECENT CLOSURE COST ESTIMATE PROVIDED BY THE PERMIT**
10 **HOLDER UNDER § 14-105(A) OF THIS SUBTITLE;**

11 (6) Obtain and keep in effect **COMPREHENSIVE GENERAL** liability
12 insurance coverage in an amount not less than \$300,000 for each person and \$500,000
13 for each occurrence or accident to pay damages for injury to ~~[persons]~~ ~~THIRD~~
14 ~~PARTIES~~ or damage to property caused by [the drilling, production operations, or
15 plugging of all of the permit holder's gas or oil wells in the State] **SUDDEN**
16 **ACCIDENTAL OCCURRENCES ARISING FROM, OR IN SUPPORT OF, THE**
17 **ACTIVITIES AUTHORIZED BY A PERMIT ISSUED UNDER § 14-104 OF THIS**
18 **SUBTITLE, INCLUDING THE COSTS AND EXPENSES INCURRED IN THE**
19 **INVESTIGATION, DEFENSE, OR SETTLEMENT OF CLAIMS; [and]**

20 (7) **OBTAIN AND KEEP IN EFFECT ENVIRONMENTAL POLLUTION**
21 **LIABILITY INSURANCE IN AN AMOUNT NOT LESS THAN \$1,000,000 PER LOSS FOR**
22 **BODILY INJURY AND PROPERTY DAMAGE TO ~~THIRD-PARTIES~~ PERSONS AND**
23 **NATURAL RESOURCE DAMAGE, INCLUDING THE COSTS OF CLEANUP AND**
24 **REMEDICATION, CAUSED BY THE SUDDEN OR NONSUDDEN RELEASE OF**
25 **POLLUTANTS ARISING FROM, OR IN SUPPORT OF, THE ACTIVITIES AUTHORIZED**
26 **BY A PERMIT ISSUED UNDER § 14-104 OF THIS SUBTITLE, INCLUDING THE**
27 **COSTS AND EXPENSES INCURRED IN THE INVESTIGATION, DEFENSE, OR**
28 **SETTLEMENT OF CLAIMS;**

29 (8) **IN THE EVENT OF AN ASSIGNMENT OR TRANSFER OF A**
30 **PERMIT, MAINTAIN THE EXISTING FINANCIAL ASSURANCE REQUIRED UNDER**
31 **THIS SECTION UNTIL REPLACEMENT FINANCIAL ASSURANCE IS APPROVED BY**
32 **THE DEPARTMENT; AND**

33 [(7)] (9) Notify the Department of the location of the equipment
34 required by regulation for the prevention and containment of gas leaks and oil spills.

35 (B) **THE ENVIRONMENTAL POLLUTION LIABILITY INSURANCE**
36 **REQUIRED UNDER SUBSECTION (A)(7) OF THIS SECTION SHALL BE MAINTAINED**
37 **FOR 5 YEARS AFTER THE DEPARTMENT DETERMINES THAT:**

1 (1) **THE GAS OR OIL WELL HAS BEEN PROPERLY SEALED AND**
2 **PLUGGED; AND**

3 (2) **THE SITE HAS BEEN RECLAIMED.**

4 **(C) THE PERMIT HOLDER'S FINANCIAL ASSURANCE REQUIRED UNDER**
5 **~~SUBSECTION~~ SUBSECTIONS (A) AND (B) OF THIS SECTION SHALL:**

6 (1) **EXTEND TO THE OWNER OR OWNERS OF THE SURFACE AND**
7 **SUBSURFACE PROPERTY; AND**

8 (2) **COVER THE ACTS AND OMISSIONS OF THE PERMIT HOLDER'S**
9 **CONTRACTORS AND SUBCONTRACTORS DURING THEIR ACTIVITIES IN**
10 **CONNECTION WITH THE DRILLING, OPERATION, AND CLOSURE OF THE WELL.**

11 **[(b)] (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
12 **SUBSECTION, A HOLDER OF A PERMIT TO DRILL FOR GAS OR OIL THAT HAS A**
13 **WELL IN EXISTENCE ON OR BEFORE OCTOBER 1, 2013, SHALL PROVIDE**
14 **FINANCIAL ASSURANCE BY MAINTAINING THE SAME PERFORMANCE BOND AND**
15 **LIABILITY INSURANCE THAT IS REQUIRED FOR THE HOLDER'S MOST RECENT**
16 **PERMIT OR PERMIT RENEWAL ISSUED ON OR BEFORE OCTOBER 1, 2013.**

17 **(2) IF A GAS OR OIL WELL IS IN EXISTENCE ON OR BEFORE**
18 **OCTOBER 1, 2013, AND IS MODIFIED AFTER OCTOBER 1, 2013, BY**
19 **RECOMPLETION, STIMULATION, DEEPENING, OR ADDING LATERAL EXTENSIONS,**
20 **THE HOLDER OF THE PERMIT FOR THE GAS OR OIL WELL SHALL COMPLY WITH**
21 **THE REQUIREMENTS FOR FINANCIAL ASSURANCE CONTAINED IN SUBSECTIONS**
22 **(A), (B), (C), AND (E) OF THIS SECTION.**

23 **(E)** The Department may adopt regulations to:

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

27 (2) **ENABLE PERMIT APPLICANTS TO OFFER, AND THE**
28 **DEPARTMENT TO AUTHORIZE, ALTERNATIVE MEANS FOR DEMONSTRATING**
29 **FINANCIAL ASSURANCE, INCLUDING:**

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

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

32 (III) **CASH;**

- 1 (IV) A CERTIFICATE OF DEPOSIT;
- 2 (V) A LETTER OF CREDIT;
- 3 (VI) SELF-INSURANCE;
- 4 (VII) A CORPORATE GUARANTEE; OR
- 5 (VIII) ANY OTHER SURETY THE DEPARTMENT DETERMINES
- 6 TO BE GOOD AND SUFFICIENT; AND

7 (3) ESTABLISH ALTERNATIVE FINANCIAL ASSURANCE

8 REQUIREMENTS AS APPROPRIATE FOR A NEW GAS STORAGE WELL AND A GAS

9 STORAGE WELL THAT IS MODIFIED BY RECOMPLETION, STIMULATION,

10 DEEPENING, OR ADDING LATERAL EXTENSIONS.

11 [(c)] ~~(F)~~ (F) The Department shall adopt regulations requiring each holder of a

12 permit to drill for gas or oil to have equipment available for the prevention and

13 containment of gas leaks and oil spills.

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

15 (1) Post the performance bond under subsection (a)(5) of this section

16 in:

17 (i) Cash;

18 (ii) Certificates of deposit;

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

20 or

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

22 (2) Provide for the holder's own liability insurance under subsection

23 (a)(6) of this section.]

24 ~~(F)~~ (G) A PERMIT OR THE TRANSFER OF A PERMIT MAY NOT BECOME

25 EFFECTIVE UNTIL THE FINANCIAL ASSURANCE REQUIREMENTS OF THIS

26 SECTION HAVE BEEN SATISFIED.

27 14-122.

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

1 (b) The Fund consists of:

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

3 (2) Funds appropriated by the General Assembly for deposit to the
4 Fund;

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

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

10 (c) (1) The Fund is a special, nonlapsing fund that is not subject to §
11 7–302 of the State Finance and Procurement Article.

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

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

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2013.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.