SENATE BILL 678

M3 4lr2434

By: **Senator Conway**
Introduced and read first time: January 31, 2014
Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable
Senate action: Adopted
Read second time: March 8, 2014

CHAPTER _____

AN ACT concerning

Maryland Oil Disaster Containment, Clean–Up and Contingency Fund and Oil Contaminated Site Environmental Cleanup Fund

FOR the purpose of altering the basis for calculating a certain license fee credited to the Maryland Oil Disaster Containment, Clean–Up and Contingency Fund; altering the date by which the Department of the Environment is required to report annually to certain subcommittees of the General Assembly; extending the deadline by which the owner of a certain eligible heating oil tank may apply for reimbursement of certain costs from the Oil Contaminated Site Environmental Cleanup Fund; requiring the Secretary of the Environment to convene a certain workgroup for a certain purpose; requiring, by a certain date, the Department to report to certain committees of the General Assembly; making stylistic changes; and generally relating to the Maryland Oil Disaster Containment, Clean–Up and Contingency Fund and the Oil Contaminated Site Environmental Cleanup Fund.

BY repealing and reenacting, with amendments,
Article – Environment
Section 4–411 and 4–705
Annotated Code of Maryland
(2013 Replacement Volume)

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

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.

Article – Environment

4–411.

(a) (1) In this section the following words have the meanings indicated.

(2) "Barrel" means any measure of petroleum products or its by–products which consists of 42.0 U.S. gallons of liquid measure.

(3) "Fund" means the Maryland Oil Disaster Containment, Clean–Up and Contingency Fund.

(4) "Transfer" means the offloading or onloading of oil in the State from or to any commercial vessel, barge, tank truck, tank car, pipeline, or any other means used for transporting oil.

(b) A person other than a vessel or barge may not transfer oil in the State without a license.

(c) (1) A license required under this section shall be secured from the Department of the Environment subject to the terms and conditions set forth in this section. The fee on any barrel shall be imposed only once, at the point of first transfer in the State. The license fee shall be:

(i) Credited to the Maryland Oil Disaster Containment, Clean–Up and Contingency Fund and based on:

1. Before **[**July 1, 2013, a 5.75**]** **JULY 1, 2017, A 7.75** cents per barrel fee for oil transferred in the State; and

2. On or after **[**July 1, 2013, a 3**]** **JULY 1, 2017, A 5** cents per barrel fee for oil transferred in the State; and

(ii) Until **[**July 1, 2010**]** **JULY 1, 2017**, based on an additional **[**1.75 cents**]** **0.25 CENT** per barrel fee for oil transferred in the State and credited to the Oil Contaminated Site Environmental Cleanup Fund as described in Subtitle 7 of this title.

(2) The license fee shall be paid quarterly to the Department and on receipt by the Comptroller, credited to the proper fund. The licensee shall certify to the Department, on forms as may be prescribed by the Department, the number of barrels of oil transferred by the licensee during the fee quarter no later than the last day of the month following the fee quarter. These records shall be kept confidential by the Department.

(3) When the balance in the Maryland Oil Disaster Containment, Clean–Up and Contingency Fund from the monthly license fees paid under paragraph

(1)(i) of this subsection into the Fund equals or exceeds a maximum limit of $5,000,000, collection of subsequent monthly license fees under paragraph (1)(i) of this subsection shall be abated until:

(i) The balance in the Fund from the license fees becomes less than or equal to $4,000,000; or

(ii) There is evidence that the balance in the Fund could be significantly reduced by the recent occurrence of a major discharge or series of discharges.

(4) If a licensee fails to remit the fee and accompanying certification required by this section, the amount of the license fee due shall be determined by the Department from information as may be available. Notice of this determination shall be given to the licensee liable for payment of the license fee. The determination shall finally and irrevocably fix the fee unless the licensee against whom it is assessed, within 30 days after receiving notice of the determination, shall apply to the Department for a hearing or unless the Department, on its own, shall redetermine the fee.

(5) The Department shall promulgate rules and regulations, establish audit procedures for the audit of licensees, and prescribe and publish forms as may be necessary to effectuate the purposes of this section.

(d) As a condition precedent to the issuance or renewal of a license, the Department shall require satisfactory evidence that the applicant has implemented or is in the process of implementing State and federal plans and regulations to control pollution related to oil, petroleum products, and their by–products and the abatement thereof when a discharge occurs.

(e) Any person who violates subsection (b) or subsection (c) of this section is guilty of a misdemeanor and upon conviction in a court of competent jurisdiction is subject to a fine not exceeding $10,000 plus any accrued but unpaid license fees.

(f) There is a Maryland Oil Disaster Containment, Clean–Up and Contingency Fund for the Department to use to develop equipment, personnel, and plans; for contingency actions to respond to, contain, clean–up, and remove from the land and waters of the State discharges of oil, petroleum products, and their by–products into, upon, or adjacent to the waters of the State; and restore natural resources damaged by discharges. The Fund may also be used by the Department for oil–related activities in water pollution control programs. The cost of containment, clean–up, removal, and restoration, including attorneys' fees and litigation costs, shall be reimbursed to the State by the person responsible for the discharge. The reimbursement shall be credited to the Fund. The Fund shall be limited in accordance with the limits set forth in this section. To this sum shall be credited every license fee, fine, if imposed by the circuit court for any county, and any other charge related to this

subtitle. To this Fund shall be charged every expense the Department of the Environment has which relates to this section.

(g) Money in the Fund not needed currently to meet the Department of the Environment's obligations in the exercise of its responsibility under this section shall be deposited with the State Treasurer to the credit of the Fund, and may be invested as provided by law. Interest received on the investment shall be credited to the Fund. The Secretary of the Environment shall determine the proper allocation of the moneys credited to the Fund only for the following purposes:

(1) Administrative expenses, personnel expenses, and equipment costs of the Department related to the purposes of this section;

(2) Prevention, control, containment, clean–up, and removal of discharges into, upon, or adjacent to waters of the State of discharges of oil, petroleum products and their by–products, and the restoration of natural resources damaged by such discharges;

(3) Development of containment and clean–up equipment, plans, and procedures in accordance with the purposes of this section;

(4) Paying insurance costs by the State to extend or implement the benefits of the Fund; and

(5) Expenses related to oil–related activities in the Department's water pollution control programs.

(h) The Department shall provide the standing committees of the Maryland General Assembly with primary jurisdiction over this section with a status report on the Fund on or before **[**October 1**]** **JANUARY 1** of each year **IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE**. The report shall include an accounting of all moneys expended for each of the purposes specified in subsection (g) of this section.

4–705.

(a) The owner or operator of an underground oil storage tank eligible under § 4–704(b)(1)(ii) of this subtitle may apply to the Fund for reimbursement, until December 31, 2007, for usual, customary, and reasonable costs incurred on or after October 1, 2000 in performing site rehabilitation.

(b) **[**The**]** **UNTIL JUNE 30, 2017, THE** owner of a heating oil tank eligible under § 4–704(b)(1)(iii) of this subtitle may apply to the Fund **FOR REIMBURSEMENT** no later than 6 months after **THE COMPLETION OF** rehabilitation **[**completion for reimbursement, until June 30, 2013,**]** for usual, customary, and reasonable costs incurred on or after October 1, 2000 in performing site rehabilitation.

(c) (1) Any reimbursement from the Fund for applications approved on or after July 1, 1996 is subject to:

(i) For owners or operators of six tanks or fewer, a deductible of $7,500;

(ii) For owners or operators of more than 6 but not more than 15 tanks, a deductible of $10,000;

(iii) For owners or operators of more than 15 but not more than 30 tanks, a deductible of $15,000;

(iv) For owners or operators of more than 30 tanks, a deductible of $20,000; and

(v) For residential owners of heating oil tanks, a deductible of $500; and

(2) The maximum amount to be reimbursed from the Fund shall be:

(i) $125,000 for underground oil storage tanks per occurrence; and

(ii) $20,000 for heating oil tanks per occurrence.

(d) To be eligible for reimbursement from the Fund, an owner or operator shall:

(1) Certify that the discharge is not the result of a willful or deliberate act;

(2) Submit a corrective action plan, schedule, and cost estimate to the Department that shall include provisions for the environmentally sound treatment or disposal of contaminated soils that meet all federal and State requirements and standards; and

(3) Except for heating oil tanks, certify that the discharge is from a tank registered under § 4–411.1 of this title.

(e) If the owner or operator knowingly submits a false certification under subsection (d) of this section, that owner or operator is not eligible for reimbursement under this subtitle.

(f) Only expenses that are cost–effective, reasonable, and consistent with a corrective action plan approved by the Department may be eligible for reimbursement from the Fund.

(g) The cost for replacement or retrofitting of underground oil storage tanks or heating oil tanks and associated piping is not eligible for reimbursement, and the Department may not incur these costs or expend moneys from the Fund for these purposes.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Secretary of the Environment shall convene a workgroup consisting of representatives of the various sectors of the petroleum marketing industry and representatives from appropriate public and private entities to review and assess the long–term funding needs of the oil pollution programs in the State.

(b) On or before December 31, 2016, the Department of the Environment shall report the findings and recommendations of the workgroup, in accordance with § 2–1246 of the State Government Article, to the Legislative Policy Committee, the House Environmental Matters Committee, the Senate Finance Committee, and the Senate Education, Health, and Environmental Affairs Committee.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2014.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.