

# HOUSE BILL 111

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(PRE-FILED)

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By: **Delegate Love**

Requested: September 25, 2020

Introduced and read first time: January 13, 2021

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environmental Justice – At-Risk Communities and Environmental Permits –**  
3 **Requirements**

4 FOR the purpose of requiring the Department of the Environment to develop, post, and  
5 maintain on its website a list of at-risk communities in the State; requiring the  
6 Department to update the list of at-risk communities with a certain frequency;  
7 requiring the Department to notify a municipality if any part of the municipality has  
8 been designated as an at-risk community; requiring an applicant for a certain permit  
9 to take certain actions before an application may be considered complete; requiring  
10 the Department to post certain information on its website; requiring the Department  
11 to provide a certain notice to a certain person; requiring an applicant to take certain  
12 actions at a certain public hearing; requiring an applicant to provide certain  
13 information to the Department not later than a certain period of time after a certain  
14 public hearing; authorizing the Department to require an applicant to consolidate  
15 certain public hearings; requiring the Department to review certain information and  
16 conduct a certain evaluation; prohibiting the Department from issuing a certain  
17 decision for a certain period of time after a certain public hearing; requiring the  
18 Department to deny a certain permit under certain circumstances; authorizing the  
19 Department to issue a certain permit under certain circumstances; authorizing the  
20 Department to impose certain conditions on a certain permit under certain  
21 circumstances; requiring the Department to provide a certain response on approving  
22 or denying a certain permit; establishing that a certain applicant must comply with  
23 the provisions of this Act only once, unless the Department makes a certain  
24 determination; requiring the Department to charge an applicant a fee to cover  
25 certain costs; authorizing the Department to issue and post on its website a technical  
26 guide for compliance with this Act; requiring the Department to adopt regulations to  
27 carry out this Act; defining certain terms; providing for the application and  
28 construction of this Act; and generally relating to environmental justice and  
29 environmental permits.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to  
2 Article – Environment  
3 Section 1–702  
4 Annotated Code of Maryland  
5 (2013 Replacement Volume and 2020 Supplement)

6 Preamble

7 WHEREAS, The General Assembly declares that all Maryland residents, regardless  
8 of income, race, ethnicity, color, or national origin, have a right to live, work, and recreate  
9 in an environment that is clean and does not harm their health; and

10 WHEREAS, Historically, Maryland’s low–wealth communities and communities of  
11 color have been subject to a disproportionately high number of environmental and public  
12 health stressors, including pollution from numerous industrial, commercial, and  
13 governmental facilities located in these communities; and

14 WHEREAS, As a result, residents in the State’s at–risk communities have suffered  
15 from increased adverse health effects including asthma, cancer, elevated blood lead levels,  
16 cardiovascular disease, and developmental disorders; and

17 WHEREAS, Children are especially susceptible to the adverse health effects caused  
18 by exposure to pollution, and such health effects may severely limit a child’s potential for  
19 future success; and

20 WHEREAS, The adverse effects caused by pollution impede the growth, stability,  
21 quality of life, and long–term well–being of individuals and families living in at–risk  
22 communities; and

23 WHEREAS, The legacy of siting sources of pollution in at–risk communities  
24 continues to pose a threat to the health, well–being, and economic success of the State’s  
25 most vulnerable residents; and

26 WHEREAS, The General Assembly declares that no community should bear a  
27 disproportionate share of the adverse environmental and public health consequences that  
28 accompany the State’s economic growth, that the State’s at–risk communities must have a  
29 meaningful opportunity to participate in any decision to locate in their community certain  
30 types of facilities which, by the nature of their activity, have the potential to increase  
31 environmental and public health stressors, and that it is in the public interest for the State,  
32 where appropriate, to limit the future placement and expansion of such facilities in at–risk  
33 communities; now, therefore,

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

36 **Article – Environment**

1 **1-702.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
3 INDICATED.

4 (2) "AT-RISK COMMUNITY" MEANS ANY CENSUS BLOCK GROUP IN  
5 WHICH, ACCORDING TO THE MOST RECENT U.S. CENSUS BUREAU SURVEY:

6 (I) AT LEAST 35% OF THE HOUSEHOLDS ARE AT OR BELOW  
7 TWICE THE POVERTY THRESHOLD;

8 (II) AT LEAST 40% OF THE RESIDENTS IDENTIFY AS PEOPLE OF  
9 COLOR OR AS MEMBERS OF A STATE-RECOGNIZED TRIBAL COMMUNITY; OR

10 (III) AT LEAST 40% OF THE HOUSEHOLDS DO NOT HAVE AN  
11 ADULT THAT SPEAKS ENGLISH "VERY WELL".

12 (3) "ENVIRONMENTAL JUSTICE" HAS THE MEANING STATED IN §  
13 1-701(A) OF THIS SUBTITLE.

14 (4) "ENVIRONMENTAL OR PUBLIC HEALTH STRESSORS" MEANS:

15 (I) SOURCES OF ENVIRONMENTAL POLLUTION, INCLUDING:

16 1. AREAS WITH HIGH CONCENTRATIONS OF STATIONARY  
17 SOURCES OF AIR POLLUTION;

18 2. MOBILE SOURCES OF AIR POLLUTION;

19 3. CONTAMINATED SITES;

20 4. TRANSFER STATIONS OR OTHER SOLID WASTE  
21 FACILITIES;

22 5. RECYCLING FACILITIES;

23 6. SCRAP YARDS; AND

24 7. POINT-SOURCES OF WATER POLLUTION, INCLUDING  
25 WATER POLLUTION FROM FACILITIES OR SEWER OVERFLOWS; AND

26 (II) CONDITIONS THAT MAY CAUSE POTENTIAL PUBLIC HEALTH  
27 IMPACTS, INCLUDING:

- 1                           1.    **ASTHMA;**
- 2                           2.    **CANCER;**
- 3                           3.    **ELEVATED BLOOD LEAD LEVELS;**
- 4                           4.    **CARDIOVASCULAR DISEASE; AND**
- 5                           5.    **DEVELOPMENTAL        PROBLEMS        IN        AT-RISK**
- 6 **COMMUNITIES.**

7                   **(5)    “FACILITY” MEANS ANY:**

- 8                           **(I)    MAJOR SOURCE OF AIR POLLUTION;**
- 9                           **(II)   SOURCE OF AIR POLLUTION REQUIRED TO MAINTAIN AN AIR**
- 10 **QUALITY PERMIT TO OPERATE;**
- 11                           **(III)   RESOURCE RECOVERY FACILITY;**
- 12                           **(IV)   INCINERATOR;**
- 13                           **(V)    SLUDGE PROCESSING FACILITY;**
- 14                           **(VI)   COMBUSTOR;**
- 15                           **(VII)   INCINERATOR;**
- 16                           **(VIII)   SEWAGE TREATMENT PLANT WITH A CAPACITY OF MORE**
- 17 **THAN 50,000,000 GALLONS PER DAY;**
- 18                           **(IX)   TRANSFER STATION OR OTHER SOLID WASTE FACILITY;**
- 19                           **(X)    RECYCLING FACILITY CAPABLE OF RECEIVING AT LEAST**
- 20 **100 TONS OF RECYCLABLE MATERIAL PER DAY;**
- 21                           **(XI)   SCRAP METAL FACILITY;**
- 22                           **(XII)   LANDFILL, INCLUDING A LANDFILL THAT ACCEPTS ASH,**
- 23 **CONSTRUCTION DEBRIS, DEMOLITION DEBRIS, OR SOLID WASTE;**
- 24                           **(XIII)   MEDICAL WASTE INCINERATOR; OR**

1 (XIV) CONCENTRATED ANIMAL FEEDING OPERATION.

2 (6) "MAJOR SOURCE" MEANS:

3 (I) A MAJOR SOURCE OF AIR POLLUTION, AS DEFINED BY THE  
4 FEDERAL CLEAN AIR ACT; OR

5 (II) A SOURCE WHICH DIRECTLY EMITS, OR HAS THE POTENTIAL  
6 TO EMIT, 100 TONS PER YEAR OR MORE OF ANY AIR POLLUTANT.

7 (7) "PERMIT" MEANS:

8 (I) ANY INDIVIDUAL PERMIT REQUIRED UNDER:

9 1. § 2-401 OF THIS ARTICLE;

10 2. § 4-103 OF THIS ARTICLE;

11 3. § 5-502 OF THIS ARTICLE;

12 4. § 5-906 OF THIS ARTICLE;

13 5. § 7-103 OF THIS ARTICLE;

14 6. § 7-232 OF THIS ARTICLE;

15 7. § 9-204 OF THIS ARTICLE;

16 8. § 9-231 OF THIS ARTICLE;

17 9. § 9-323 OF THIS ARTICLE; OR

18 10. § 14-504 OF THIS ARTICLE; AND

19 (II) A GENERAL OR AN INDIVIDUAL DISCHARGE PERMIT FOR  
20 CONCENTRATED ANIMAL FEEDING OPERATIONS ISSUED UNDER § 9-323 OF THIS  
21 ARTICLE.

22 (B) (1) ON OR BEFORE JANUARY 31, 2022, THE DEPARTMENT SHALL  
23 DEVELOP, POST, AND MAINTAIN ON ITS WEBSITE A LIST OF AT-RISK COMMUNITIES  
24 IN THE STATE.

1           **(2) THE DEPARTMENT SHALL UPDATE THE LIST OF AT-RISK**  
2 **COMMUNITIES POSTED ON ITS WEBSITE AT LEAST ONCE EVERY 2 YEARS.**

3           **(3) THE DEPARTMENT SHALL NOTIFY A MUNICIPALITY IF ANY PART**  
4 **OF THE MUNICIPALITY HAS BEEN DESIGNATED AS AN AT-RISK COMMUNITY UNDER**  
5 **THIS SUBSECTION.**

6           **(c) (1) THIS SUBSECTION APPLIES TO A PERMIT APPLICATION FOR:**

7                   **(i) THE CONSTRUCTION OF A FACILITY THAT IS LOCATED OR**  
8 **PROPOSED TO BE LOCATED, IN WHOLE OR IN PART, IN A CENSUS TRACT THAT**  
9 **INCLUDES AN AT-RISK COMMUNITY OR IS ADJACENT TO A CENSUS TRACT THAT**  
10 **INCLUDES AN AT-RISK COMMUNITY;**

11                   **(ii) THE EXPANSION OF AN EXISTING FACILITY THAT IS**  
12 **LOCATED OR PROPOSED TO BE LOCATED, IN WHOLE OR IN PART, IN A CENSUS TRACT**  
13 **THAT INCLUDES AN AT-RISK COMMUNITY OR IS ADJACENT TO A CENSUS TRACT THAT**  
14 **INCLUDES AN AT-RISK COMMUNITY; AND**

15                   **(iii) THE RENEWAL OF A PERMIT FOR AN EXISTING FACILITY**  
16 **THAT IS LOCATED OR PROPOSED TO BE LOCATED, IN WHOLE OR IN PART, IN A**  
17 **CENSUS TRACT THAT INCLUDES AN AT-RISK COMMUNITY OR IS ADJACENT TO A**  
18 **CENSUS TRACT THAT INCLUDES AN AT-RISK COMMUNITY.**

19           **(2) AN APPLICATION MAY NOT BE CONSIDERED COMPLETE UNLESS**  
20 **THE APPLICANT HAS:**

21                   **(i) PREPARED AN ENVIRONMENTAL JUSTICE IMPACT**  
22 **STATEMENT THAT ASSESSES:**

23                           **1. THE POTENTIAL ENVIRONMENTAL AND PUBLIC**  
24 **HEALTH STRESSORS ASSOCIATED WITH THE FACILITY, INCLUDING:**

25                                   **A. ANY ADVERSE ENVIRONMENTAL OR PUBLIC HEALTH**  
26 **STRESSORS THAT CANNOT BE AVOIDED IF THE PERMIT IS GRANTED; AND**

27                                   **B. THE LIKELY IMPACT ON ENVIRONMENTAL OR PUBLIC**  
28 **HEALTH STRESSORS THAT WILL RESULT FROM ADDING THE POLLUTION**  
29 **ASSOCIATED WITH THE OPERATION OF THE FACILITY TO THE EXISTING AND**  
30 **FORESEEABLE SOURCES OF POLLUTION IN THE AT-RISK COMMUNITY; AND**

31                                   **2. THE ENVIRONMENTAL AND PUBLIC HEALTH**  
32 **STRESSORS ALREADY BORNE BY THE AT-RISK COMMUNITY;**

1           **(II) TRANSMITTED THE ENVIRONMENTAL JUSTICE IMPACT**  
2 **STATEMENT REQUIRED UNDER ITEM (I) OF THIS PARAGRAPH TO THE DEPARTMENT**  
3 **AND THE LOCAL GOVERNING BODY OF THE COUNTY IN WHICH THE AT-RISK**  
4 **COMMUNITY IS LOCATED AT LEAST 60 DAYS BEFORE THE PUBLIC HEARING**  
5 **REQUIRED UNDER ITEM (III) OF THIS PARAGRAPH;**

6           **(III) ORGANIZED AND CONDUCTED A PUBLIC HEARING IN**  
7 **ACCORDANCE WITH THIS SECTION IN THE AT-RISK COMMUNITY;**

8           **(IV) AT LEAST 60 DAYS BEFORE THE PUBLIC HEARING,**  
9 **PUBLISHED A NOTICE OF THE HEARING IN AT LEAST TWO NEWSPAPERS**  
10 **CIRCULATING WITHIN THE AT-RISK COMMUNITY, INCLUDING ONE LOCAL**  
11 **NON-ENGLISH NEWSPAPER, IF APPLICABLE, THAT INCLUDES:**

- 12                   1.   **THE DATE, TIME, AND LOCATION OF THE HEARING;**
- 13                   2.   **A DESCRIPTION OF THE FACILITY;**
- 14                   3.   **A MAP DEPICTING THE LOCATION OF THE FACILITY;**
- 15                   4.   **A BRIEF SUMMARY OF THE ENVIRONMENTAL JUSTICE**  
16 **IMPACT STATEMENT;**
- 17                   5.   **INFORMATION ON HOW AN INTERESTED PERSON MAY**  
18 **REVIEW A COPY OF THE COMPLETE ENVIRONMENTAL JUSTICE IMPACT STATEMENT;**
- 19                   6.   **AN ADDRESS FOR THE SUBMISSION OF WRITTEN**  
20 **COMMENTS ON THE PERMIT APPLICATION; AND**
- 21                   7.   **ANY OTHER INFORMATION REQUIRED BY THE**  
22 **DEPARTMENT; AND**

23           **(V) PROVIDED A COPY OF THE NOTICE TO THE DEPARTMENT.**

24           **(D) (1) ON RECEIPT OF THE ENVIRONMENTAL JUSTICE IMPACT**  
25 **STATEMENT UNDER SUBSECTION (C)(2)(II) OF THIS SECTION, THE DEPARTMENT**  
26 **SHALL:**

27           **(I) POST THE STATEMENT ON ITS WEBSITE; AND**

1                   **(II) PROVIDE NOTICE OF RECEIPT OF THE STATEMENT TO EACH**  
2 **PERSON WHO SUBMITTED WRITTEN COMMENTS UNDER SUBSECTION (C)(2)(IV)6 OF**  
3 **THIS SECTION.**

4                   **(2) ON RECEIPT OF THE NOTICE UNDER SUBSECTION (C)(2)(V) OF**  
5 **THIS SECTION, THE DEPARTMENT SHALL POST THE NOTICE ON ITS WEBSITE.**

6           **(E) (1) AT THE PUBLIC HEARING REQUIRED UNDER SUBSECTION**  
7 **(C)(2)(III) OF THIS SECTION, AN APPLICANT SHALL:**

8                   **(I) PROVIDE CLEAR, ACCURATE, AND COMPLETE**  
9 **INFORMATION ABOUT THE FACILITY AND THE POTENTIAL ENVIRONMENTAL AND**  
10 **PUBLIC HEALTH STRESSORS ASSOCIATED WITH THE FACILITY;**

11                   **(II) ACCEPT WRITTEN AND ORAL COMMENTS FROM ANY**  
12 **MEMBER OF THE PUBLIC; AND**

13                   **(III) PROVIDE AN OPPORTUNITY FOR MEANINGFUL PUBLIC**  
14 **PARTICIPATION.**

15                   **(2) NOT LATER THAN 10 DAYS AFTER THE HEARING, AN APPLICANT**  
16 **SHALL SUBMIT TO THE DEPARTMENT A HEARING TRANSCRIPT AND ANY WRITTEN**  
17 **COMMENTS RECEIVED.**

18                   **(3) THE DEPARTMENT MAY REQUIRE AN APPLICANT TO**  
19 **CONSOLIDATE THE HEARING REQUIRED UNDER SUBSECTION (C)(2)(III) OF THIS**  
20 **SECTION WITH ANY OTHER PUBLIC HEARING HELD OR REQUIRED BY THE**  
21 **DEPARTMENT REGARDING THE PERMIT APPLICATION IF THE PUBLIC HEARING**  
22 **MEETS THE REQUIREMENTS OF THIS SECTION.**

23           **(F) AFTER A HEARING UNDER SUBSECTION (C)(2)(III) OF THIS SECTION AND**  
24 **BEFORE APPROVING OR DENYING AN APPLICATION, THE DEPARTMENT SHALL:**

25                   **(1) REVIEW THE ENVIRONMENTAL JUSTICE IMPACT STATEMENT,**  
26 **HEARING TESTIMONY, WRITTEN COMMENTS, AND ANY OTHER INFORMATION THE**  
27 **DEPARTMENT HAS COLLECTED; AND**

28                   **(2) EVALUATE THE ISSUANCE OF THE PERMIT AND ANY CONDITIONS**  
29 **THAT MAY BE ADDED TO THE PERMIT THAT WILL ELIMINATE OR REDUCE THE**  
30 **ADVERSE ENVIRONMENTAL OR PUBLIC HEALTH STRESSORS AFFECTING THE**  
31 **AT-RISK COMMUNITY.**



1           **(G) (1) THE DEPARTMENT MAY NOT ISSUE A DECISION ON AN**  
2 **APPLICATION FOR AT LEAST 45 DAYS AFTER THE HEARING REQUIRED UNDER**  
3 **SUBSECTION (C)(2)(III) OF THIS SECTION.**

4           **(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**  
5 **DEPARTMENT SHALL DENY A PERMIT IF THE DEPARTMENT FINDS THAT APPROVAL**  
6 **OF THE PERMIT AS PROPOSED WOULD, TOGETHER WITH OTHER ENVIRONMENTAL**  
7 **OR PUBLIC HEALTH STRESSORS AFFECTING THE AT-RISK COMMUNITY, CAUSE OR**  
8 **CONTRIBUTE TO ADVERSE CUMULATIVE ENVIRONMENTAL OR PUBLIC HEALTH**  
9 **STRESSORS IN THE COMMUNITY THAT ARE HIGHER THAN THOSE BORNE BY OTHER**  
10 **COMMUNITIES WITHIN THE STATE, COUNTY, OR OTHER GEOGRAPHIC AREA**  
11 **ANALYZED BY THE DEPARTMENT.**

12           **(3) THE DEPARTMENT MAY ISSUE A PERMIT FOR A FACILITY THAT**  
13 **WILL CAUSE OR CONTRIBUTE TO ADVERSE CUMULATIVE ENVIRONMENTAL OR**  
14 **PUBLIC HEALTH STRESSORS IN AN AT-RISK COMMUNITY IF:**

15           **(I) THE AT-RISK COMMUNITY OR COMMUNITIES WITHIN THE**  
16 **SAME CENSUS TRACT OR ADJACENT TRACTS TO THE FACILITY CONDUCT A VOTE:**

17                   **1. TO WHICH ALL HOUSEHOLDS WITHIN THE**  
18 **COMMUNITY ARE INVITED TO PARTICIPATE; AND**

19                   **2. AT WHICH AN AFFIRMATIVE VOTE OF 75% OF ALL**  
20 **THOSE PARTICIPATING AFFIRM THAT THE FACILITY IS DESIRABLE; AND**

21           **(II) AS PART OF ISSUING THE PERMIT, THE DEPARTMENT**  
22 **IMPOSES CONDITIONS ON THE CONSTRUCTION AND OPERATION OF THE FACILITY**  
23 **THAT WILL PROTECT PUBLIC HEALTH.**

24           **(4) AS PART OF ISSUING A PERMIT, THE DEPARTMENT MAY IMPOSE**  
25 **CONDITIONS ON THE CONSTRUCTION AND OPERATION OF A FACILITY THAT WILL**  
26 **PROTECT PUBLIC HEALTH IF THE DEPARTMENT FINDS THAT APPROVAL OF THE**  
27 **PERMIT AS PROPOSED WOULD, WHEN CONSIDERED WITH OTHER ENVIRONMENTAL**  
28 **AND PUBLIC HEALTH STRESSORS AFFECTING THE AT-RISK COMMUNITY, CAUSE OR**  
29 **CONTRIBUTE TO ADVERSE CUMULATIVE ENVIRONMENTAL OR PUBLIC HEALTH**  
30 **STRESSORS IN THE COMMUNITY THAT ARE HIGHER THAN THOSE BORNE BY OTHER**  
31 **COMMUNITIES WITHIN THE STATE, COUNTY, OR OTHER GEOGRAPHIC AREA**  
32 **ANALYZED BY THE DEPARTMENT.**

33           **(H) ON APPROVING OR DENYING A PERMIT, THE DEPARTMENT SHALL**  
34 **PROVIDE A WRITTEN RESPONSE TO ANY WRITTEN OR ORAL COMMENTS RECEIVED**  
35 **FOR THE APPLICATION.**

1           **(I) (1) IF AN APPLICANT IS APPLYING FOR MORE THAN ONE PERMIT FOR**  
2 **THE SAME FACILITY, THE APPLICANT MUST COMPLY WITH THE PROVISIONS OF THIS**  
3 **SECTION ONLY ONCE UNLESS THE DEPARTMENT DETERMINES THAT MORE THAN**  
4 **ONE PUBLIC HEARING IS NECESSARY DUE TO THE COMPLEXITY OF THE**  
5 **APPLICATIONS.**

6           **(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED**  
7 **TO LIMIT THE AUTHORITY OF THE DEPARTMENT TO HOLD OR REQUIRE ADDITIONAL**  
8 **PUBLIC HEARINGS FOR A PERMIT.**

9           **(J) THE DEPARTMENT SHALL CHARGE AN APPLICANT A FEE TO COVER THE**  
10 **DEPARTMENT'S COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS SECTION,**  
11 **INCLUDING THE COSTS OF PROVIDING TECHNICAL ASSISTANCE TO APPLICANTS AND**  
12 **AT-RISK COMMUNITIES.**

13           **(K) THE DEPARTMENT MAY ISSUE AND POST ON ITS WEBSITE TECHNICAL**  
14 **GUIDANCE FOR COMPLIANCE WITH THIS SECTION.**

15           **(L) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS**  
16 **SECTION.**

17           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 2021.