

# SENATE BILL 524

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By: The President (By Request – Office of the Attorney General)

Introduced and read first time: January 22, 2021

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Multidefendant Oil and Hazardous Substance Pollution Cases –**  
3 **Effect of Settlement**

4 FOR the purpose of exempting certain types of pollution cases from the Maryland Uniform  
5 Contribution Among Joint Tort–Feasors Act; requiring the factfinder in certain legal  
6 actions to make a determination of the total liability and assign comparative  
7 responsibility to certain parties; authorizing the State to continue to pursue certain  
8 legal actions or bring new legal actions if the State has obtained less than complete  
9 relief from a certain person who has resolved the person's liability with the State in  
10 a settlement; providing that a certain person is not liable for certain claims under  
11 certain circumstances; providing for the effect of a settlement that resolves the  
12 liability of a particular person with the State; authorizing a certain person to seek  
13 contribution from certain other persons pursuant to certain provisions of law; and  
14 generally relating to legal actions involving oil or hazardous substance pollution.

15 BY repealing and reenacting, without amendments,  
16 Article – Environment  
17 Section 4–401(a) and (j) and 7–201(a) and (t)(1)  
18 Annotated Code of Maryland  
19 (2013 Replacement Volume and 2020 Supplement)

20 BY adding to  
21 Article – Environment  
22 Section 4–421  
23 Annotated Code of Maryland  
24 (2013 Replacement Volume and 2020 Supplement)

25 BY repealing and reenacting, with amendments,  
26 Article – Environment  
27 Section 7–221  
28 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2013 Replacement Volume and 2020 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

3 That the Laws of Maryland read as follows:

4 **Article – Environment**

5 4-401.

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

7 (j) (1) "Person responsible for the discharge" includes:

8 (i) The owner of the discharged oil;

9 (ii) The owner, operator, or person in charge of the oil storage  
10 facility, vessel, barge, or vehicle involved in the discharge at the time of or immediately  
11 before the discharge; and

12 (iii) Any other person who through act or omission causes the  
13 discharge.

14 (2) "Person responsible for the discharge" does not include:

15 (i) A person who, without participating in the management of an  
16 underground oil storage tank, and who otherwise is not engaged in petroleum production,  
17 refining, or marketing, holds indicia of ownership in an underground oil storage tank  
18 primarily to protect its security interest in that underground oil storage tank if that person:

19 1. Has not foreclosed on its security interest in the  
20 underground oil storage tank; or

21 2. Abandoned that underground oil storage tank under  
22 regulations of the Department within 180 days of acquiring the tank through foreclosure  
23 or other means;

24 (ii) A holder of a mortgage or deed of trust who acquires title to a  
25 property that is subject to a corrective action plan approved by the Department under this  
26 subtitle provided that the holder complies with the requirements, prohibitions, and  
27 conditions of the plan;

28 (iii) Subject to paragraph (3) of this subsection, a lender who extends  
29 credit for the performance of removal or remedial actions conducted in accordance with  
30 requirements imposed under this title who:

31 1. Has not caused or contributed to a discharge of oil; and

2. Previous to extending that credit, is not a person  
responsible for the discharge at the site; or

3 (iv) Subject to paragraph (3) of this subsection, a lender who takes  
4 action to protect or preserve a mortgage or deed of trust on a site or a security interest in  
5 property located on a site at which a discharge of oil has occurred, by stabilizing, containing,  
6 removing, or preventing the discharge of oil in a manner that does not cause or contribute  
7 to a discharge of oil if:

13 3. The action does not violate a provision of this article.

20 4-421.

21 (A) IN THIS SECTION, "PROPORTIONATE SHARE OF LIABILITY" MEANS THE  
22 PERCENTAGE OF COMPARATIVE RESPONSIBILITY ASSIGNED BY THE FACTFINDER TO  
23 A SETTLING PARTY IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

33 (C) IF THE STATE HAS OBTAINED LESS THAN COMPLETE RELIEF FROM A  
34 PERSON RESPONSIBLE FOR THE DISCHARGE WHO HAS RESOLVED THE PERSON'S

1   **LIABILITY TO THE STATE IN A SETTLEMENT, THE STATE MAY:**

2           **(1) CONTINUE TO PURSUE AN ONGOING LEGAL ACTION AGAINST ANY**  
3   **OTHER PERSON RESPONSIBLE FOR THE DISCHARGE WHO HAS NOT RESOLVED THE**  
4   **PERSON'S LIABILITY; OR**

5           **(2) BRING A NEW ACTION AGAINST ANY OTHER PERSON RESPONSIBLE**  
6   **FOR THE DISCHARGE WHO HAS NOT RESOLVED THE PERSON'S LIABILITY.**

7           **(D) (1) IF A PERSON RESPONSIBLE FOR THE DISCHARGE RESOLVES THE**  
8   **PERSON'S LIABILITY TO THE STATE IN A SETTLEMENT, THE PERSON SHALL NOT BE**  
9   **LIABLE FOR CLAIMS FOR NONCONTRACTUAL CONTRIBUTION OR INDEMNITY**  
10   **REGARDING ANY MATTER OR CLAIM ADDRESSED IN THE SETTLEMENT, INCLUDING**  
11   **ANY STATUTORY OR COMMON LAW CLAIM.**

12           **(2) A SETTLEMENT THAT RESOLVES THE LIABILITY OF A PARTICULAR**  
13   **PERSON RESPONSIBLE FOR THE DISCHARGE:**

14           **(I) DOES NOT RELEASE FROM LIABILITY ANY OTHER PERSON**  
15   **RESPONSIBLE FOR THE DISCHARGE EXCEPT AS SPECIFICALLY PROVIDED BY THE**  
16   **TERMS OF THE SETTLEMENT; BUT**

17           **(II) REDUCES THE POTENTIAL LIABILITY OF OTHER PERSONS**  
18   **RESPONSIBLE FOR THE DISCHARGE BY THE SETTLING PERSON'S PROPORTIONATE**  
19   **SHARE OF LIABILITY FOR ALL SETTLED CLAIMS, INCLUDING ALL STATUTORY AND**  
20   **COMMON LAW CLAIMS.**

21           **(E) A PERSON RESPONSIBLE FOR THE DISCHARGE WHO HAS RESOLVED THE**  
22   **PERSON'S LIABILITY TO THE STATE IN A SETTLEMENT OR THROUGH THE**  
23   **SATISFACTION OF A JUDGMENT MAY SEEK CONTRIBUTION FROM ANY OTHER**  
24   **PERSON RESPONSIBLE FOR THE DISCHARGE WHO HAS NOT SETTLED THE OTHER**  
25   **PERSON'S LIABILITY TO THE STATE IN ACCORDANCE WITH THIS SECTION OR § 7-221**  
26   **OF THIS ARTICLE.**

27   7-201.

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

29           (t) (1) "Responsible person" means any person who:

30           (i) Is the owner or operator of a vehicle or a site containing a  
31   hazardous substance;

32           (ii) At the time of disposal of any hazardous substance, was the

1 owner or operator of any site at which the hazardous substance was disposed;

7 (iv) Accepts or accepted any hazardous substance for transport to a  
8 disposal or treatment facility or any sites selected by the person.

9 7-221.

10 (a) All expenditures from the State Hazardous Substance Control Fund made by  
11 the Department under § 7-220(b) of this subtitle in response to a release or a threatened  
12 release of a hazardous substance at a particular site shall be reimbursed to the Department  
13 for the State Hazardous Substance Control Fund by the responsible person for the release  
14 or the threatened release.

15 (b) (1) In addition to any other legal action authorized by this subtitle, the  
16 Attorney General may bring an action to recover costs and interest from any responsible  
17 person who fails to make a reimbursement as required under subsection (a) of this section.

(2) (i) In an action under paragraph (1) of this subsection to recover costs, the State shall make a good faith effort to identify and seek recovery against all responsible persons.

21 (ii) The State shall seek recovery on an apportionment basis in  
22 accordance with a person's contribution to the situation or problem, when there is a  
23 reasonable basis for determining the contribution of a responsible person.

24 (iii) Reimbursement in any other case shall not be apportioned.

25 (c) The Department may recover costs for the Fund resulting from releases or  
26 threatened releases of hazardous substances whether or not the hazardous substance was  
27 placed at the site, released, or threatened to be released before July 1, 1985.

28 (d) [Except as otherwise provided in subsection (b) of this section, a person who  
29 is liable for a release or threatened release of a hazardous substance under this subtitle is  
30 subject to the Uniform Contribution Among Tort–Feasors Act under Title 3, Subtitle 14 of  
31 the Courts Article, including a right of contribution, as if that person had caused an injury  
32 in tort.]

33 (e)] A responsible person against whom a legal action is brought under subsection  
34 (b) of this section for a release or threatened release of a hazardous substance may move to  
35 join any other responsible person under the Maryland Rules.

1           [(f)] (E) Upon request by the Department, and after reasonable notice, a person  
2 shall provide to the Department any existing information or documents relating to:

3           (1) The identification, nature, and quantity of any hazardous substance  
4 which is or has been generated, treated, stored, or disposed of at a site or facility, or  
5 transported to a site or facility; and

6           (2) The nature or extent of a release of a hazardous substance at or from a  
7 site or facility.

8           (F) (1) IN THIS SUBSECTION, “PROPORTIONATE SHARE OF THE  
9 LIABILITY” MEANS THE PERCENTAGE OF COMPARATIVE RESPONSIBILITY ASSIGNED  
10 BY THE FACTFINDER TO A SETTLING PARTY IN ACCORDANCE WITH PARAGRAPH (2)  
11 OF THIS SUBSECTION.

12           (2) IN AN ACTION UNDER SUBSECTION (B) OF THIS SECTION, THE  
13 FACTFINDER SHALL:

14           (I) MAKE A DETERMINATION OF THE TOTAL LIABILITY IN THE  
15 LEGAL ACTION, INCLUDING COSTS, EXPENDITURES, AND INTEREST AVAILABLE  
16 UNDER THIS SUBTITLE AND ALL OTHER AVAILABLE RELIEF; AND

17           (II) ASSIGN COMPARATIVE RESPONSIBILITY TO ALL PARTIES  
18 JOINED IN THE LEGAL ACTION, INCLUDING ALL PLAINTIFFS, DEFENDANTS,  
19 THIRD-PARTY DEFENDANTS, INTERVENORS, AND OTHER NAMED PARTIES.

20           (3) (I) IF A RESPONSIBLE PERSON RESOLVES THE PERSON’S  
21 LIABILITY FOR A VIOLATION OF THIS SUBTITLE TO THE STATE IN A SETTLEMENT,  
22 THE PERSON SHALL NOT BE LIABLE FOR CLAIMS FOR NONCONTRACTUAL  
23 CONTRIBUTION OR INDEMNITY REGARDING ANY MATTER OR CLAIM ADDRESSED IN  
24 THE SETTLEMENT, INCLUDING ANY STATUTORY OR COMMON LAW CLAIM.

25           (II) A SETTLEMENT THAT RESOLVES THE LIABILITY OF A  
26 PARTICULAR RESPONSIBLE PERSON:

27           1. DOES NOT RELEASE FROM LIABILITY ANY OTHER  
28 RESPONSIBLE PERSON EXCEPT AS SPECIFICALLY PROVIDED BY THE TERMS OF THE  
29 SETTLEMENT; BUT

30           2. REDUCES THE POTENTIAL LIABILITY OF OTHER  
31 RESPONSIBLE PERSONS BY THE SETTLING PERSON’S PROPORTIONATE SHARE OF  
32 THE LIABILITY FOR ALL SETTLED CLAIMS, INCLUDING ALL STATUTORY AND  
33 COMMON LAW CLAIMS.

1                   **(4) A RESPONSIBLE PERSON WHO HAS RESOLVED THE PERSON'S**  
2                   **LIABILITY TO THE STATE IN A SETTLEMENT OR THROUGH THE SATISFACTION OF A**  
3                   **JUDGMENT MAY SEEK CONTRIBUTION FROM ANY OTHER RESPONSIBLE PERSON**  
4                   **WHO HAS NOT SETTLED THE OTHER PERSON'S LIABILITY TO THE STATE IN**  
5                   **ACCORDANCE WITH THIS SECTION OR § 4-421 OF THIS ARTICLE.**

6                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
7                   apply retroactively to all legal actions pending on the effective date of this Act.

8                   SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
9                   1, 2021.