

Chapter 690

(Senate Bill 661)

AN ACT concerning

Environment – Maryland Oil Disaster Containment, Clean-Up and Contingency Fund and Oil Contaminated Site Environmental Cleanup Fund – Funding, Reallocation, ~~and~~ Reimbursements, and Study

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 and the Oil Contaminated Site Environmental Cleanup Fund; authorizing the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund to be used, in certain fiscal years, to reimburse the residential owner of a heating oil tank that applied to the Oil Contaminated Site Environmental Cleanup Fund on or before a certain date; extending the date by which a residential owner of a certain heating oil tank may apply to the Oil Contaminated Site Environmental Cleanup Fund for reimbursement of certain costs; requiring the Department of the Environment to conduct a certain study and report its findings and recommendations to the General Assembly after a certain date but before a certain date; making conforming and stylistic changes; and generally relating to the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund and Oil Contaminated Site Environmental Cleanup Fund.

BY repealing and reenacting, without amendments,

Article – Environment

Section 4-411(a)(1) and (3), and 4-701(a) and (c), ~~and 4-705(b)~~

Annotated Code of Maryland

(2013 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 4-411(c), (f), and (g) and 4-705(b)

Annotated Code of Maryland

(2013 Replacement Volume and 2020 Supplement)

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

Article – Environment

4-411.

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

(3) “Fund” means the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund.

(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.

(2) The fee on any barrel shall be imposed only once, at the point of first transfer in the State.

(3) 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, [2021] **2024**, a ~~7.75~~ **8** cents per barrel fee for oil transferred in the State; and

2. On or after July 1, [2021] **2024**, a 5 cents per barrel fee for oil transferred in the State; and

(ii) Until July 1, ~~2021~~ **2024**, based on an additional 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)] (4) (I) The license fee shall be paid quarterly to the Department and on receipt by the Comptroller, credited to the proper fund.

(II) 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.

(III) These records shall be kept confidential by the Department.

[(3)] (5) When the balance in the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund from the monthly license fees paid under paragraph [(1)(i)] **(3)(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)] **(3)(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)] (6) (I) 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.

(II) Notice of this determination shall be given to the licensee liable for payment of the license fee.

(III) 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)] (7) 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.

(f) **(1) (I)** 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.

(II) The Fund may also be used by the Department for oil-related activities in water pollution control programs.

(III) 1. 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.

2. The reimbursement shall be credited to the Fund.

(IV) The Fund shall be limited in accordance with the limits set forth in this section.

(V) To this **[sum] FUND** shall be credited every license fee, fine, if imposed by the circuit court for any county, and any other charge related to this subtitle.

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

(2) Notwithstanding any other provision of this section, in fiscal years 2019, 2020, and 2021 only, the Fund may be used to pay costs associated with the purposes of the Oil Contaminated Site Environmental Cleanup Fund specified in § 4-704 of this title.

(3) IN FISCAL YEARS 2022 THROUGH ~~2026~~ 2029, THE FUND MAY BE USED TO REIMBURSE THE RESIDENTIAL OWNER OF A HEATING OIL TANK THAT APPLIED, ON OR BEFORE JUNE 30, ~~2021~~ 2024, TO THE OIL CONTAMINATED SITE ENVIRONMENTAL CLEANUP FUND UNDER § ~~4-705(B)~~ 4-705(B)(2) OF THIS TITLE.

(g) (1) 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.

(2) Interest received on the investment shall be credited to the Fund.

(3) The Secretary of the Environment shall determine the proper allocation of the money credited to the Fund only for the following purposes:

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

[(2)] (II) 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)] (III) Development of containment and clean-up equipment, plans, and procedures in accordance with the purposes of this section;

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

[(5)] (V) Expenses related to oil-related activities in the Department's water pollution control programs; [and]

[(6)] (VI) In fiscal years 2019, 2020, and 2021 only, paying costs associated with the purposes of the Oil Contaminated Site Environmental Cleanup Fund specified in § 4-704 of this title; AND

(VII) IN FISCAL YEARS 2022 THROUGH ~~2026~~ 2029, REIMBURSING THE RESIDENTIAL OWNER OF A HEATING OIL TANK THAT APPLIED, ON OR BEFORE JUNE 30, ~~2021~~ 2024, TO THE OIL CONTAMINATED SITE ENVIRONMENTAL CLEANUP FUND UNDER § ~~4-705(B)~~ 4-705(B)(2) OF THIS TITLE.

4-701.

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

- (c) “Fund” means the Oil Contaminated Site Environmental Cleanup Fund.

4–705.

(b) **(1)** Until June 30, 2021, 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 for usual, customary, and reasonable costs incurred on or after October 1, 2000 in performing site rehabilitation.

(2) UNTIL JUNE 30, 2024, THE RESIDENTIAL OWNER OF A HEATING OIL TANK ELIGIBLE UNDER § 4–704(B)(1)(III) OF THIS SUBTITLE MAY APPLY TO THE FUND FOR REIMBURSEMENT NOT LATER THAN 6 MONTHS AFTER THE COMPLETION OF REHABILITATION FOR USUAL, CUSTOMARY, AND REASONABLE COSTS INCURRED ON OR AFTER OCTOBER 1, 2000, IN PERFORMING THE SITE REHABILITATION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) The Department shall study the Oil Contaminated Site Environmental Cleanup Fund and efforts the State has made to replace aging residential heating oil tanks.

(2) The study shall include:

(i) The number of reimbursement claims submitted for the replacement of residential heating oil tanks for 2021 and 2022;

(ii) The backlog of reimbursement claims submitted for the replacement of residential heating oil tanks for 2021 and 2022;

(iii) The average number of days to receive reimbursement after the filing of a reimbursement claim for the replacement of residential heating oil tanks for 2021 and 2022;

(iv) Recommendations for reducing the number of days for reimbursing claims for the replacement of residential heating oil tanks;

(v) Recommendations regarding the continuation of the Oil Contaminated Site Environmental Cleanup Fund; and

(vi) Recommendations to improve the State’s response to aging residential heating oil tanks.

(b) After December 1, 2022, but before January 1, 2023, the Department shall report its findings and recommendations to the General Assembly in accordance with § 2–1257 of the State Government Article.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.