

Angela Alsobrooks_FAV_SB254

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Position: FAV



THE PRINCE GEORGE'S COUNTY GOVERNMENT

OFFICE OF THE COUNTY EXECUTIVE

BILL: Senate Bill 254 – On-Site Sewage Disposal Systems - Inspection - Licensing

SPONSOR: Senator Young

HEARING DATE: February 11, 2020

COMMITTEE: Education, Health, and Environmental Affairs

CONTACT: Intergovernmental Affairs Office, 301-780-8411

POSITION: SUPPORT

The Office of the Prince George's County Executive **SUPPORTS Senate Bill 254 – On-Site Sewage Disposal Systems - Inspection – Licensing**, which prohibits anyone from inspecting an on-site sewage disposal system unless the person holds a septic inspection license issued by the Maryland Department of the Environment (MDE) on or after May 1, 2021. Under this bill, the Department must adopt eligibility regulations and establish training requirements for septic inspection licenses on or before January 1, 2021. SB 254 also defines an application and fee for this license and potential penalties.

SB 254 would standardize inspection of on-site sewage disposal systems to ensure they do not pose a public health hazard. Currently, property transfer inspections are completely unregulated, which creates confusion for residents and inconsistencies in quality. The Prince George's County Health Department is delegated responsibility for on-site sewage disposal system inspections for all other installations. A licensure process for property transfer inspectors would ensure that inspectors are qualified with the training and knowledge necessary to adequately assess septic systems.

For the reasons stated above, the Office of the Prince George's County Executive **SUPPORTS Senate Bill 254** and asks for a **FAVORABLE** report.

ShoreRivers_ElleBassett_FAV_SB0254

Uploaded by: BASSETT, ELLE

Position: FAV



Testimony in Support of Senate Bill 254 – Environment – On-Site Sewage Disposal Systems – Inspection Licenses

February 11, 2020

Dear Chairman Pinsky and Members of the Committee,

Thank you for this opportunity to submit testimony in support of SB254 – *prohibiting a person from engaging in the business of inspection of an on-site sewage disposal system unless the person holds a license issued by the Department of the Environment*– on behalf of ShoreRivers. ShoreRivers is a river protection group on Maryland’s Eastern Shore with 3,500 members. Our mission is to protect and restore our Eastern Shore waterways through science-based advocacy, restoration and education.

The waterways of the eastern shore have some of the most waterfront throughout the entire Chesapeake Bay and the majority of that waterfront is developed with residential units using septic systems to manage their sewer waste. The unique sandy soils and high water tables on the Eastern Shore leave the waters of this region susceptible to pollution from failing septic systems. Nutrient and bacterial pollution can cause algal blooms, dead zones, or areas closed to swimming or shellfish harvest.

I recently became a homeowner with a septic system in Talbot County in 2018. We did have the system inspected prior to sale, and we were told that the system was functioning properly and efficiently. Within a few months however, our dog became ill and we invited Maryland Department of the Environment to look at the system to see if there was a connection. The Department of the Environment informed us that we should not have pets or children in our yard and that our system had multiple issues that should have been found during inspection. As a Maryland resident and environmental advocate, **I was disappointed to learn that our state does not have higher requirements for septic inspectors.**

Requiring septic inspectors to obtain a license from the Department of the Environment will ensure that this situation will not occur in the future. Failing systems will be found and remediated in a more timely manner, benefiting both human and environmental health. Inspections during property transfers is one of the few opportunities the state has to identify septic related pollution sources. **As these home’s on-site sewage disposal systems are inspected or installed in the future, it’s critical that it is done by trained, licensed professionals.** ShoreRivers is a strong proponent for policies that help to address pollution coming from septic systems. For the reason and the examples described above, ShoreRivers urges the committee to adopt **Senate Bill 254.**

Sincerely,
Elle Bassett, Miles-Wye Riverkeeper on behalf of:

ShoreRivers

Jeff Horstman, Executive Director

Tim Trumbauer, Chester Riverkeeper | Matt Pluta, Choptank Riverkeeper

Elle Bassett, Miles-Wye Riverkeeper | Zack Kelleher, Sassafras Riverkeeper

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Freeman_FAV_sb0254

Uploaded by: FREEMAN, JENNIFER

Position: FAV

Sb 254 On-Site Sewage Disposal System inspection

Position: Support

Subject location: 14975 Sugarland Rd., Poolesville, MD 20837

Submitted by: Jennifer Freeman, property owner
Jennifer.freeman1@yahoo.com
(301) 377-4267

Date: February 11, 2020

I want to strongly support the proposed upcoming legislation regarding licensing for construction and inspection of OSDS. Particularly in the case of property transfer, I believe such licensing is critical to ensure that inspections are carried out in a standardized, effective and enforceable way. Without such licensing, there is significant risk to the new home owner that the septic system inspection is carried out improperly, thus not only putting property values significantly at risk, but also causing potentially huge costs to later repair a system that was actually already failed (but “passed” inspection) by way of a sub-standard septic system “inspection” at the time of property transfer.

In the fall of 2015, I entered into a sales contract for a property in Poolesville. As required by the sales contract, a septic inspection should be carried out prior to the sale of the property. This inspection should be carried out according to the contract “...by a private company, which has followed the MDE standardized procedure for the inspection of the septic system(s) and that the septic system is not malfunctioning, is functioning satisfactorily, or is in operating condition”. After the inspection, I had begun to have suspicions that the septic system might have problems. I began to research more information about OSDS as well as talk to Montgomery County officials about how inspections should be carried out. Quickly, I came to the conclusion that a proper septic inspection had NOT been carried out and that there was significant risk that the system was already failed. This concern led to a legal dispute between me and the seller which I ultimately won. In the dispute, it was determined that the inspector’s septic inspection could not be considered reliable to determine the true state of the system; therefore, it was required that a new septic inspection (to be carried out by a second trusted inspector) should take place. The results of the new inspection would be the final determination as to the correct status of the system. Needless to say, the new inspector found the system to be failed and determined that it would need to be replaced.

Although I won the legal dispute and costs for installing the new system were covered by the settlement, I was not able to negotiate that the seller also cover my legal fees, which ended up being about \$14,000. Had I not won the case I would have been out approximately an additional \$30,000- 50,000 to put in a new system.

Details of the Negligent/Falsified Inspection:

As is described below, the inspector had failed to carry out his inspection according to MDE guidelines. **Most importantly, the inspector ended up (falsely!) passing the septic system for the property which later was shown to have been a failed system.** Had I not learned that the septic inspection that took place was not complete and therefore might not reflect the true state and condition of the system, then it is almost certain

that I would have ended up buying a property with a failed system, and if a new system would not have been possible, the property would have been uninhabitable.

Below details the areas where the septic inspection had failed to meet MDE guidelines, and had the inspector been held to licensing requirements, he would have had to comply with the legislation.

1. Sub-standard, non-MDE compliant inspection –

- a) No hydraulic test was performed. Especially considering the house had been vacant for about a year, the inspector had not brought any water onsite to pump it into the trenches to check drainage.
 - After the second septic inspection had been carried (as required by the legal dispute agreement), the hydraulic test was performed, using about 300 gal of water brought onsite (The original inspector had no water tank truck on location during his inspection). I was on site during the second inspection and saw how water flowed right back into the tank since it was not able to flow through to the trenches. I.e., the system failed the hydraulic test during the second inspection.
- b) The trenches were not checked. At one point during the original inspection, I asked where the trenches were and the inspector pointed off in the distance to some depression in the back pasture (which I later found to be some ground hog holes), and told me the trenches were “probably over there somewhere”.
 - Again, during the second inspection, not only did the inspector first prod with a metal bar to find the trenches, but he also brought in his digging equipment (back hoe) and dug all around the necessary areas to find the trenches in the areas where they had been indicated to be according to county records. Obviously, using this method, the second inspector was able to find the trenches. Consequently, the results of his testing of the trenches showed ground water quickly filling into the trenches, again, meaning the trenches were failed. Further, digging of the trenches revealed dark gray/blackish septic stones which are further indication of a failed system. It is clear that without digging up the trenches, it is impossible to know if they are working – this is a part of the MDE guidelines which the original inspector failed to carry out.
- c) There were tree roots found to be in the tank, but this would raise serious questions about the tank being found to be structurally sound as is noted in the inspector’s report.
- d) The inspector had not checked the distribution box during his inspection.
- e) The inspector pumped the tank first at the very beginning of his inspection, then continued with the rest of his inspection. However, MDE guidelines state that the tank should not be pumped before the inspection, but first there should be observation of the liquid levels and the hydraulic load test.
- f) Insufficient report provided – The extremely brief septic inspection report provided by the inspector does not come close to providing all the required information according to MDE guidelines and in some cases provided false information.
 - i. It stated the house had been vacant since Aug 2015 (the house was put on the market in Sept 2015), but in fact the house had been vacant for an entire year so this information he wrote in the report was not true.
 - ii. No supporting pictures or video evidence were provided to support the inspector’s assertions about the state of the system, as required by MDE guidelines.
 - iii. There was no sketch of the OSDS layout.

- iv. The recommended MDE OSDS inspection report form is 6 pages of specific and clear aspects that should be checked and commented on during the inspection, yet the form used by the inspector is a brief 1 page document and contains very little descriptive information about anything.

2. Ineffective/substandard resolutions to noted problems.

- a) The inspector had found that the baffle was broken and needed to be replaced. During the final property inspection the day before settlement was to occur, I looked at the inspector's work and found that the new baffle was secured with cheap metallic connectors which will corrode and eventually fail. Additionally, the baffle material is substandard, and would not pass a proper inspection. As such, repairs performed on the baffle do not adequately address one of the key septic defects identified by the inspector during his septic inspection and written in the report.
- b) The inspector found that the roots of the large nearby maple tree had broken into the tank. His recommendation was to cut the tree down. According to the recommendation, he organized that the tree was in fact cut, but it was cut with about 18 inches above the ground, meaning that (particularly since it was a Maple), the tree would not have died probably for several years, but would re-sprout from the sides and bottom, meaning the roots would definitely live on strongly for years to come, thus continuing to damage the tank further.

3. The inspector includes an almost surreal attempted legal disclaimer as 'standard issue' to his inspection reports. The disclaimer states, "Septic systems are subterranean, therefore it is impossible to determine their overall condition". Clearly such statements (excuses) would never be allowed if inspectors are required to be licensed since the licensing would require precisely the exact opposite of that statement – requiring that inspections be carried out such that the overall condition CAN be determined! It is shocking that the inspector's 'insight' that septic systems are subterranean is used as an excuse not to do the job he was hired for. Of course, the sales contract for the property transfer requires a determination of the condition of the system; yet, the inspector himself states here in this disclaimer, that he is unable to provide such determination since it is "impossible" since such systems are underground.

4. Interest in providing unapproved (thus illegal) 'work-arounds' for a high cost. The subject property was found to have an additional bootlegged septic system. The inspector offered to me that he would be willing to make the connection between toilet in the outbuilding and the existing tank for about \$5,000 and the County would not need to be informed that this was done. He explained to me that such connection would never have been approved by the county, so if I want to do it, he would take care of it "off the record". I declined his "offer" and requested the illegal system to be properly abandoned, which in fact he did do adequately. Nevertheless, I wanted it to be known that such 'offers' at high prices are a part of the inspector's way of doing business.

5. Exorbitant cost – The inspector's prices are not only high, but astronomical and price gauging, considering that when two parties are in a real-estate transaction, clearly the parties are 'trapped' into accepting whatever price he puts on the table.

- a) Cost of cutting tree down and not even eliminating the roots - \$1,850.
 - By comparison, I had to have a hickory taken down near the house, about the same size as the maple, plus it had to be climbed due to its proximity to the house, plus logs

cut in firewood lengths and the remainder chipped; the total cost for that hickory was \$400. Considering that the maple the inspector took down was just cut and dropped, all parts remaining there on location, this price is incomprehensible.

- b) Perc testing for one sand mound, only one hole dug - \$ 3,250.
 - Standard industry price is about - \$800
- c) Cut roots out of tank, replace baffle - \$1,200
- d) Crush and backfill 2nd septic tank - \$1,800

During this whole experience, I learned that although there are certification trainings on how to carry out proper septic inspections that inspectors must participate in, in fact, there is no actual licensing of septic inspectors. I strongly believe that this is a significant problem and that the only way there is a chance to weed out sub-standard inspectors such as the one I had encountered is to institute a licensing system whereby inspectors must not only pass training courses, but they would be at risk of losing their license (and thus not being able to work on septic systems or carry out inspections) in the case they are found guilty of gross negligence and malpractice as my case described above would clearly demonstrate.

I most sincerely hope this licensing legislation passes, in order to hopefully help others not have to go through the same financial pain and emotional stress that I had to go through during my home purchase.

Sincerely,

Jennifer Freeman

BackRiverPrecast_Geckle_FAV_SB0254

Uploaded by: GECKLE, MATT

Position: FAV



PO BOX 329
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Senate Bill SB 0254

Senate Education Health and Environmental Affairs
February 11, 2020

POSITION: IN FAVOR

Back River Pre-Cast, LLC (BRP) is a Maryland company that manufactures precast products including concrete products used for wastewater. Maryland currently does not have a statewide licensing requirement for property transfer inspectors to ensure the protection of the public from faulty installations or inspections. SB 0254 is needed to provide that protection. The need for licensing is as follows:

- 1) No statewide or county licensing requirements
- 2) The only requirement now is that you pass a MDE approved course and that is not enforced.
- 3) No uniformed require standard for a inspection
 - a) It is left up to the discretion of the inspector as to how the inspection will be performed.
- 4) The inspector is not financially responsible for a faulty inspection.
 - 1) I know of no case in MD where an inspector has been found financially liable for a faulty inspection, but I know of several where they have not been found liable.
- 5) Causes financial and emotional hardship for the seller and/or buyer when a faulty inspection is performed.
- 6) No requirement for continuing education (CEU'S)
 - a) CEU's are needed as in other professions to keep up with changing requirements and technology.
- 7) To provide accountability to ensure proper installations.

In conclusion, just like other professions have a licensing requirement to protect the consumer one is need for property transfer inspectors.

Thank you,

Matthew Geckle
Vice-President

MOWPA_Eddie HarrisonAMENDMENTS_fav-sb0254

Uploaded by: HARRISON, EDDIE

Position: FAV

SENATE BILL 254

M3

0lr1685

By: **Senator Young**

Introduced and read first time: January 20, 2020

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **On-Site Sewage Disposal Systems – Inspection – Licensing**

3 FOR the purpose of prohibiting an individual from engaging in the business of inspecting 4
an on-site sewage disposal system unless the individual holds a certain license 5 issued by the
Department of the Environment on or after a certain date; requiring 6 the Department to adopt
regulations establishing certain eligibility criteria and 7 training requirements for a certain
license on or before a certain date; requiring an 8 applicant for a certain license to submit a
certain application and pay a certain fee;

9 establishing certain penalties for violations of this Act; requiring certain fines to be 10 paid
into a certain fund and used for a certain purpose; providing for the liability of 11 a certain
license holder who conducts an incomplete inspection of an on-site sewage 12 disposal system;
authorizing a local government to establish certain additional 13 requirements for inspections
of on-site sewage disposal systems; repealing certain 14 provisions of law relating to the
inspection of on-site sewage disposal systems; 15 providing for the application of this Act;
providing for a delayed effective date for 16 certain provisions of this Act; and generally relating
to the inspection of on-site 17 sewage disposal systems.

18 BY adding to
19 Article – Environment
20 Section 9–217.2
21 Annotated Code of Maryland
22 (2014 Replacement Volume and 2019 Supplement)

23 BY repealing
24 Article – Environment
25 Section 9–217.1
26 Annotated Code of Maryland
27 (2014 Replacement Volume and 2019 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

sb0254

2

1 That the Laws of Maryland read as follows:

2 **Article – Environment**

3 **9–217.2.**

6 **(A) IN THIS SECTION, “LICENSE HOLDER” MEANS AN INDIVIDUAL WHO HOLDS A
VALID ONSITE SEWAGE WASTEWATER PROPERTY TRANSFER SEPTIC INSPECTION
LICENSE ISSUED BY THE DEPARTMENT UNDER THIS SECTION.**

10 **(B) THIS SECTION DOES NOT APPLY TO AN INDIVIDUAL WHO INSPECTS AN ON–SITE
SEWAGE DISPOSAL SYSTEM AS A PART OF THE INDIVIDUAL’S DUTIES AS AN
EMPLOYEE OF THE FEDERAL GOVERNMENT, THE STATE, OR ANY LOCAL
GOVERNMENT OF THE STATE.**

11 **(C) ON OR AFTER ~~MAY~~ JULY 1, 2021, AN INDIVIDUAL MAY NOT ENGAGE IN THE
BUSINESS OF INSPECTING AN ON–SITE SEWAGE DISPOSAL SYSTEM UNLESS THE
INDIVIDUAL HOLDS A VALID ON-SITE WASTEWATER PROPERTY TRANSFER SEPTIC
INSPECTION LICENSE ISSUED BY THE DEPARTMENT.**

15 **(D) (1) ON OR BEFORE JANUARY 1, 2021, THE
DEPARTMENT SHALL ADOPT REGULATIONS ESTABLISHING
ELIGIBILITY CRITERIA AND MINIMUM TRAINING
STANDARDS FOR SEPTIC INSPECTION LICENSES.**

16 **(2) THE REGULATIONS ADOPTED UNDER THIS
SUBSECTION SHALL REQUIRE THAT:**

17 **(I) THE TRAINING INCLUDE INSTRUCTION ON
DETERMINING WHETHER AN ON–SITE SEWAGE DISPOSAL
SYSTEM IS:**

SENATE BILL 254

18 1. IN NEED OF REPLACEMENT OR REPAIR; ~~OR~~ AND

19 2. NOT IN COMPLIANCE WITH STATUTORY OR
REGULATORY REQUIREMENTS; AND

20 (II) EACH INSPECTION PERFORMED BY A LICENSE
HOLDER FOLLOWS THE INSPECTION FORMAT PROVIDED BY
THE DEPARTMENT.

21 (E) AN APPLICANT FOR A LICENSE UNDER THIS SECTION
SHALL:

22 (1) SUBMIT AN APPLICATION TO THE DEPARTMENT ON
THE FORM THE DEPARTMENT PROVIDES; AND

23 (2) PAY AN APPLICATION FEE SET BY THE
DEPARTMENT.

3

1 (F) (1) AN INDIVIDUAL WHO VIOLATES A PROVISION OF THIS SECTION OR ANY
REGULATION ADOPTED UNDER THIS SECTION IS ~~GUILTY OF A MISDEMEANOR AND, ON~~
~~CONVICTION,~~ IS SUBJECT TO ~~A~~ AN ADMINISTRATIVE FINE NOT EXCEEDING \$10,000.

3 (2) EACH DAY THAT AN INDIVIDUAL INSPECTS AN ON-SITE SEWAGE DISPOSAL
SYSTEM WITHOUT A VALID SEPTIC INSPECTION LICENSE CONSTITUTES A
6 SEPARATE VIOLATION OF THIS SECTION.

9 (3) ANY ADMINISTRATIVE FINE IMPOSED BY A COURT COLLECTED BY THE
DEPARTMENT UNDER THIS SUBSECTION SHALL BE PAID INTO THE ~~MARYLAND~~
~~CLEAN WATER~~ ON-SITE SEWAGE DISPOSAL SYSTEM ACCOUNT OF THE BAY
RESTORATION FUND ESTABLISHED UNDER §9-1605.2(H) OF THIS ARTICLE AND USED
TO SUPPORT THE COSTS ASSOCIATED WITH IMPLEMENTING THE REQUIREMENTS OF
THIS SECTION.

10 ~~(G) IN ADDITION TO THE PENALTIES PROVIDED IN SUBSECTION (F) OF THIS SECTION,~~
~~A LICENSE HOLDER WHO CONDUCTS AN INCOMPLETE INSPECTION OF AN ON-SITE~~
~~SEWAGE DISPOSAL SYSTEM SHALL BE LIABLE FOR THE COST OF REPAIRING OR~~
~~REPLACING THE ON-SITE SEWAGE DISPOSAL SYSTEM IF THE SYSTEM FAILS~~
14 ~~WITHIN 6 MONTHS AFTER THE DATE OF THE INCOMPLETE INSPECTION.~~

15 ~~(H)~~ (G) A LOCAL GOVERNMENT MAY ESTABLISH ADDITIONAL REQUIREMENTS

SENATE BILL 254

16 FOR INSPECTIONS OF ON-SITE SEWAGE DISPOSAL SYSTEMS.

(H) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
as follows:

19 **Article – Environment**

20 [9-217.1.

21 (a) After July 1, 1999, every person engaged in the business of inspecting an on-site sewage disposal system for a transfer of property must certify to the Department of the Environment that the person has completed a course of instruction, approved by the Department, in the proper inspection of on-site sewage disposal systems.

25 (b) Every person engaged in the business of inspecting an on-site sewage disposal system for a transfer of property shall make available to persons contracting for the inspection service evidence of completion of the course of instruction.

28 (c) The Department shall adopt regulations to implement the provisions of this 29 section.]

30 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect January 1, 2021.

32 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 1 of this Act, this Act shall take effect October 1, 2020.

MOWPA_EddieHarrison_FAV_SB0254

Uploaded by: HARRISON, EDDIE

Position: FAV

F. Edward Harrison, Jr. 2858 Flag Marsh Rd. Mount Airy MD 21771
410-795-8691

In Reference to Onsite Wastewater Initiatives: HB136, SB254, and a Funding Option Bill
Hearing Dates: SB254 Feb 11, 2020; HB136 Feb 12, 2020

In Favor of SB254 - On-Site Sewage Disposal Systems - Inspection – Licensing

Environmental and Transportation Committee Members,

My name is Eddie Harrison, I am here to represent MOWPA (Maryland Onsite Wastewater Professionals Association). MOWPA represents all Maryland professionals in the Onsite Industry. We have in our membership: Installers, Pumpers, Engineers, Property Transfer Inspectors, Operation and Maintenance Providers, and Code Officials.

[The Maryland Onsite Wastewater Professionals Association (MOWPA) is a 501 C(6) not-for-profit organization, chartered in September 2004 to provide education and training programs for individuals and companies working in the onsite sewage disposal system industry.

OUR MISSION....to promote and enhance the use of onsite wastewater treatment and disposal by providing a forum for education, development and information transfer in order to create viable treatment processes, design, construction, operation and maintenance capabilities within the onsite industry. www.mowpa.org

I represent MOWPA as an un-compensated Legislative Liaison, current Vice-President, and former Board President.

My day job is the owner of BAT Onsite, LLC. BAT Onsite, LLC is primarily an Operation and Maintenance Provider for automated Onsite Wastewater Systems including, but limited to: Advanced Treatment Units (including BAT), Pump Systems, Mound Systems, Drip Dispersal Systems, and pretty much any Onsite Wastewater System that requires electrical/mechanical operation under 5,000 gallons per day. I am currently servicing over 500 units, covering the whole State of Maryland. I have been working in the Onsite Wastewater Industry since 1984.

The Onsite Wastewater System (Septic System) is the most expensive appliance in a home. With the innovations, revelations, and concentration of Onsite Systems over the past 60 years, this Industry deserves a more serious approach to how it is regulated.

The Onsite Wastewater Industry has evolved tremendously since the 1950s. The logic back then was, "Just dig a hole in the ground and the water will go away". And many people, today, still subscribe to this mentality. We learned from those times that not all soil will dispose of the wastewater. We also have learned that just because it goes into the ground, that it does not go away. There were building lots created prior to the 1970s that could not support an Onsite System. Some are too small. (Waterfront developments can have 1/8 acre lots with a house, there are lots created all over the State that are only 1/2 acre lots with a house) Some developments are on soils that just don't perc for one reason or another. And these lots have homes on them today, and are failing today, in increasing numbers. Causes of the failures are due to the condensing of development and to the aging of the systems.

The wide variety of technologies in the Onsite Wastewater Industry being utilized today require varying levels of training, experience and expertise to install and maintain. MDE has some certifications in place for installation and maintenance on a small portion of these technologies.

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In Reference to Onsite Wastewater Initiatives: HB136, SB254, and a Funding Option Bill
Hearing Dates: SB254 Feb 11, 2020; HB136 Feb 12, 2020

Property Transfer Inspectors is a blatant problem. And needs immediate attention. There was a law passed in 1999 to fix the issue of curbside Onsite Wastewater Inspections. The law reads:

9-217.1.a “After July 1, 1999, every person engaged in the business of inspecting an on-site sewage disposal system for a transfer of property must certify to the Department of the Environment that the person has completed a course of instruction, approved by the Department, in the proper inspection of on-site sewage disposal systems.”

The law went on to say that MDE would draft regulation to support this law. **That never happened.** So, the requirement now is that a person is certified after taking a course of study approved by MDE, but there is no requirement that they have to follow anything they were taught in the course. We literally have Inspectors doing the “Curbside” inspection on these properties with no legal recourse. I, personally, have been approached to be an expert witness, to testify to what a proper inspection would be, and the case was dropped due to lack of precedent.

MOWPA is one of the authorized training organizations approved to certify Onsite Wastewater Property Transfer Inspectors. **MDE has not offered the “Free” course since around 2005.** There needs to be a Statewide mechanism to bring the professionals together in education and training to give Single Family Onsite Wastewater System owners good quality, consistent, professional service to save them on unnecessary repairs and maintain their property values.

MOWPA hosted a “Septic Summit” on October 15 at Howard County Conservancy in Ellicott City. We invited House E&T Committee Members, Senate EHEA Committee Members, MDE, Conference of Local Environmental Health Directors, Environmental Health Officers, MACo, Environmental Lobbying groups, Realtor Lobbyists, Builder Lobbyists, and MOWPA. We had a very successful event. There were 21 attendees representing every group we invited. There was good food, and hearty discussion/debate over all of the Onsite Wastewater Issues and possible solutions. The number one issue discussed was the faulty Onsite Wastewater Property Transfer Inspection regulation, or lack thereof. All in the room agreed there was a significant problem, but did not agree on the solution.

MOWPA is in support of SB 254 because, as a group, we see many deficiencies in our Industry caused by lack of education.

After I, representing MOWPA, supported an Onsite Wastewater Board bill in 2019 that was subsequently pulled to be negotiated in a work group with the Maryland Conference of Local Environmental Health Directors. I was a member of this workgroup representing MOWPA. Les Knapp from MACo moderated this group. There were 4 representing the Health Directors, two Environmental Lobbyists, one Onsite Industry supplier, and myself. We met four times, in person and conference calls. The meetings were very constructive when it came to the structure of the bill. We made very relevant adjustments to wording to improve the bill. However, the Health Directors took exception to the scope of the licensing. They, collectively, did not want licensing to cover all of the trades. They felt there was an urgent need for Onsite

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Property Inspectors to be licensed, but not anyone else. I feel that the four Health Directors that were assigned to our work group had a rigid opinion. I don't believe we could have told them anything that would allow them to consider licensing Installers, Pumpers and Operation and Maintenance Providers. I can personally name 6 Health Directors that fully support this initiative, but none of them were given to this group.

A full licensing Board of Onsite Wastewater Professionals is an initiative that MOWPA members have been discussing and working on for several years. We have had many industry members and code officials weigh in on how a Trade Board for our Industry would professionalize the Industry, protect Homeowners, protect property values, keep Government oversight, have Private Industry input, and protect our ground water. This Bill is an "emergency bridge" bill to cover the dire need for proper Onsite Wastewater Property Transfer Inspections until a full Onsite Wastewater Board is up and running. The Board Bill (HB136) was drafted off of a concept draft that was vetted by many MOWPA Members, other Industry members, and code officials.

More and more complicated Onsite Wastewater Systems are being used, to address soil types, topography and location of properties to waterways. The ideal building lot locations are dwindling and more existing properties that were approved prior to modern screening practices need innovative design. Some systems being installed today utilize telemetry, proprietary readers, hydraulic calculations, electronic controls and more. These technologies need more qualified training and recognized certification. This is needed for Design, Installation, Operation and Maintenance, Pumping, and Inspection. MDE certifies Property Transfer Inspectors, BAT installers, BAT O&M providers, and mound installers. They DO NOT certify or regulate any installer of an Advanced Treatment Unit (ATU) that is not designated BAT. They DO NOT certify or regulate any O&M provider for an ATU that is not designated BAT. They DO NOT certify or regulate any installer of Drip Dispersal Systems. Only the Mound system Certifications have any sort of renewal and updated training requirement. They DO NOT certify or regulate any O&M provider for ANY automated dispersal system (Mounds, drip dispersal, Low Pressure Dosing, Time dosing, etc.)

We have the full support of a majority of the Onsite Wastewater Professionals community. MOWPA put out an online survey of our total membership two years ago. The results we received back was that 80% of the respondents were in favor of State Wide licensing, 13% need more information, and 7% said no.

Note: Nationwide Installer Licensing: At least 26 States in the continental United States (all of Maryland's surrounding States) have some sort of State-wide licensing/certificate program for Installers in the Onsite Wastewater Disposal Industry. And almost all of the States along the East Coast have it.

I ask for favorable report of **SB254 - On-Site Sewage Disposal Systems - Inspection – Licensing**

Thank you for your time,

Eddie Harrison

Definitions

Septic System – A type of Onsite Wastewater System where there is no aerobic treatment.

Septic tank – A box on the ground that allows solid material to separate out of the wastewater, where some solids will float to top and other solids will sink to bottom. Then has some sort of baffle to allow semi clear (or treated) effluent to exit to a dispersal system

Dispersal system – Some sort of system that allows the treated effluent to disperse into the ground, plant uptake, and/or air. Drywell, Tile field, Deep trench, Sand Mound, At-Grade Mound, Low Pressure Dosing System, Drip Dispersal System, Lagoon, Constructed Wetlands, etc.

Automated Dispersal System – Any dispersal system that requires mechanical or electrical functions to operate

Onsite Wastewater System – Any system that treats/filters solids and contaminants from wastewater then disposes of the effluent on the same property as the wastewater was produced.

Onsite Wastewater Installer – Any person that participates in the process of installing Onsite Wastewater Systems. Excavation, setting tanks, plumbing, setting equipment, connecting equipment

Onsite Wastewater Designer – Any person that designs Onsite Wastewater Systems

Property Transfer Inspector – Any person that inspects an Onsite Wastewater System in order to facilitate the sale of a property which is serviced by an Onsite Wastewater System

Pumper – Any person engaged in removing sludge and/or effluent from any part of an Onsite Wastewater System and hauling off of the property

Operation and Maintenance Provider – Any person engaged in routine service, maintaining, repairing, or inspecting the mechanical functions of an Onsite Wastewater System

Advanced Treatment Unit – A treatment unit that would replace the position of a septic tank. Treats the wastewater to a cleaner effluent. Usually incorporates some sort of air induction

BAT (Best Available Technology) – A specific brand and model ATU that MDE has designated as reducing nitrogen by at least 50%. And also has to have been installed after the BAT designation was assigned to the unit. (Some exact same units were installed prior to their BAT approval and are NOT considered BAT)

Bootleg – Work performed without proper licensing and/or permitting

Curbside Inspection – An inspection done mostly from the street. The inspector may walk the property to look for septic leakage, but not much else.

SB254_CBF_FAV_DAN_JOHANNES

Uploaded by: Johannes, Dan

Position: FAV



CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration
Environmental Education*

Senate Bill 254

On-site Sewage Disposal Systems – Inspections – Licensing

DATE: FEBRUARY 11, 2020

POSITION: SUPPORT

The Chesapeake Bay Foundation supports SB 254. This bill will ensure that increasingly complex septic systems are inspected by trained and licensed professionals.

One of the most expensive appliances a homeowner must deal with is the replacement of their on-site septic system. Septic systems are buried underground, and problems can go undetected for years causing health and water quality issues.

Septic systems in Maryland are currently installed or inspected by more than 4,000 contractors and public health professionals. Licenses for these activities are required in some counties, but not in others. State training certifications are required for the installation of some system types, but not all. SB 254 would establish uniform credentialing of inspectors for all systems across the State and ensure that systems are functioning as designed and permitted.

Nitrogen pollution from septic systems is a significant contributor to local and regional water quality problems. Holding these agents to consistent licensing standards will help prevent pollution and protect the Chesapeake Bay and local waterways. The State of Maryland has approximately 420,000 septic systems, with about 52,000 located inside the Critical Area.¹ In some areas, septic system effluent ranges from 15% to nearly 40% of a county's total nitrogen load to the Bay. State licensure is a reasonable step toward preventing the significant negative impacts that poorly functioning septic systems can have on water quality and public health in Maryland's waterways.

For these reasons, CBF urges a favorable report on SB 254 from the Senate Education, Health, and Environmental Affairs Committee. If you have any questions, please feel free to contact Dan Johannes, Agriculture Coordinator, Chesapeake Bay Foundation, at 482.268.8816 or djohannes@cbf.org.

¹Maryland Department of Environment Maryland's Nitrogen-Reducing Septic Upgrade Program
<https://mde.maryland.gov/programs/Water/BayRestorationFund/OnsiteDisposalSystems/Pages/index.aspx>

Maryland Office • Philip Merrill Environmental Center • 6 Herndon Avenue • Annapolis • Maryland • 21403
Phone (410) 268-8816 • Fax (410) 280-3513

C&SEXCAVATING_EDWARDS_fav-SB0254

Uploaded by: JOHNSON, REED

Position: FAV

Sb 254 On-Site Sewage Disposal System inspection

Position: Support

Subject location: 14975 Sugarland Rd., Poolesville, MD 20837

Submitted by: Jennifer Freeman, property owner
Jennifer.freeman1@yahoo.com
(301) 377-4267

Date: February 11, 2020

I want to strongly support the proposed upcoming legislation regarding licensing for construction and inspection of OSDS. Particularly in the case of property transfer, I believe such licensing is critical to ensure that inspections are carried out in a standardized, effective and enforceable way. Without such licensing, there is significant risk to the new home owner that the septic system inspection is carried out improperly, thus not only putting property values significantly at risk, but also causing potentially huge costs to later repair a system that was actually already failed (but “passed” inspection) by way of a sub-standard septic system “inspection” at the time of property transfer.

In the fall of 2015, I entered into a sales contract for a property in Poolesville. As required by the sales contract, a septic inspection should be carried out prior to the sale of the property. This inspection should be carried out according to the contract “...by a private company, which has followed the MDE standardized procedure for the inspection of the septic system(s) and that the septic system is not malfunctioning, is functioning satisfactorily, or is in operating condition”. After the inspection, I had begun to have suspicions that the septic system might have problems. I began to research more information about OSDS as well as talk to Montgomery County officials about how inspections should be carried out. Quickly, I came to the conclusion that a proper septic inspection had NOT been carried out and that there was significant risk that the system was already failed. This concern led to a legal dispute between me and the seller which I ultimately won. In the dispute, it was determined that the inspector’s septic inspection could not be considered reliable to determine the true state of the system; therefore, it was required that a new septic inspection (to be carried out by a second trusted inspector) should take place. The results of the new inspection would be the final determination as to the correct status of the system. Needless to say, the new inspector found the system to be failed and determined that it would need to be replaced.

Although I won the legal dispute and costs for installing the new system were covered by the settlement, I was not able to negotiate that the seller also cover my legal fees, which ended up being about \$14,000. Had I not won the case I would have been out approximately an additional \$30,000- 50,000 to put in a new system.

Details of the Negligent/Falsified Inspection:

As is described below, the inspector had failed to carry out his inspection according to MDE guidelines. **Most importantly, the inspector ended up (falsely!) passing the septic system for the property which later was shown to have been a failed system.** Had I not learned that the septic inspection that took place was not complete and therefore might not reflect the true state and condition of the system, then it is almost certain

that I would have ended up buying a property with a failed system, and if a new system would not have been possible, the property would have been uninhabitable.

Below details the areas where the septic inspection had failed to meet MDE guidelines, and had the inspector been held to licensing requirements, he would have had to comply with the legislation.

1. Sub-standard, non-MDE compliant inspection –

- a) No hydraulic test was performed. Especially considering the house had been vacant for about a year, the inspector had not brought any water onsite to pump it into the trenches to check drainage.
 - After the second septic inspection had been carried (as required by the legal dispute agreement), the hydraulic test was performed, using about 300 gal of water brought onsite (The original inspector had no water tank truck on location during his inspection). I was on site during the second inspection and saw how water flowed right back into the tank since it was not able to flow through to the trenches. I.e., the system failed the hydraulic test during the second inspection.
- b) The trenches were not checked. At one point during the original inspection, I asked where the trenches were and the inspector pointed off in the distance to some depression in the back pasture (which I later found to be some ground hog holes), and told me the trenches were “probably over there somewhere”.
 - Again, during the second inspection, not only did the inspector first prod with a metal bar to find the trenches, but he also brought in his digging equipment (back hoe) and dug all around the necessary areas to find the trenches in the areas where they had been indicated to be according to county records. Obviously, using this method, the second inspector was able to find the trenches. Consequently, the results of his testing of the trenches showed ground water quickly filling into the trenches, again, meaning the trenches were failed. Further, digging of the trenches revealed dark gray/blackish septic stones which are further indication of a failed system. It is clear that without digging up the trenches, it is impossible to know if they are working – this is a part of the MDE guidelines which the original inspector failed to carry out.
- c) There were tree roots found to be in the tank, but this would raise serious questions about the tank being found to be structurally sound as is noted in the inspector’s report.
- d) The inspector had not checked the distribution box during his inspection.
- e) The inspector pumped the tank first at the very beginning of his inspection, then continued with the rest of his inspection. However, MDE guidelines state that the tank should not be pumped before the inspection, but first there should be observation of the liquid levels and the hydraulic load test.
- f) Insufficient report provided – The extremely brief septic inspection report provided by the inspector does not come close to providing all the required information according to MDE guidelines and in some cases provided false information.
 - i. It stated the house had been vacant since Aug 2015 (the house was put on the market in Sept 2015), but in fact the house had been vacant for an entire year so this information he wrote in the report was not true.
 - ii. No supporting pictures or video evidence were provided to support the inspector’s assertions about the state of the system, as required by MDE guidelines.
 - iii. There was no sketch of the OSDS layout.

- iv. The recommended MDE OSDS inspection report form is 6 pages of specific and clear aspects that should be checked and commented on during the inspection, yet the form used by the inspector is a brief 1 page document and contains very little descriptive information about anything.

2. Ineffective/substandard resolutions to noted problems.

- a) The inspector had found that the baffle was broken and needed to be replaced. During the final property inspection the day before settlement was to occur, I looked at the inspector's work and found that the new baffle was secured with cheap metallic connectors which will corrode and eventually fail. Additionally, the baffle material is substandard, and would not pass a proper inspection. As such, repairs performed on the baffle do not adequately address one of the key septic defects identified by the inspector during his septic inspection and written in the report.
- b) The inspector found that the roots of the large nearby maple tree had broken into the tank. His recommendation was to cut the tree down. According to the recommendation, he organized that the tree was in fact cut, but it was cut with about 18 inches above the ground, meaning that (particularly since it was a Maple), the tree would not have died probably for several years, but would re-sprout from the sides and bottom, meaning the roots would definitely live on strongly for years to come, thus continuing to damage the tank further.

3. The inspector includes an almost surreal attempted legal disclaimer as 'standard issue' to his inspection reports. The disclaimer states, "Septic systems are subterranean, therefore it is impossible to determine their overall condition". Clearly such statements (excuses) would never be allowed if inspectors are required to be licensed since the licensing would require precisely the exact opposite of that statement – requiring that inspections be carried out such that the overall condition CAN be determined! It is shocking that the inspector's 'insight' that septic systems are subterranean is used as an excuse not to do the job he was hired for. Of course, the sales contract for the property transfer requires a determination of the condition of the system; yet, the inspector himself states here in this disclaimer, that he is unable to provide such determination since it is "impossible" since such systems are underground.

4. Interest in providing unapproved (thus illegal) 'work-arounds' for a high cost. The subject property was found to have an additional bootlegged septic system. The inspector offered to me that he would be willing to make the connection between toilet in the outbuilding and the existing tank for about \$5,000 and the County would not need to be informed that this was done. He explained to me that such connection would never have been approved by the county, so if I want to do it, he would take care of it "off the record". I declined his "offer" and requested the illegal system to be properly abandoned, which in fact he did do adequately. Nevertheless, I wanted it to be known that such 'offers' at high prices are a part of the inspector's way of doing business.

5. Exorbitant cost – The inspector's prices are not only high, but astronomical and price gauging, considering that when two parties are in a real-estate transaction, clearly the parties are 'trapped' into accepting whatever price he puts on the table.

- a) Cost of cutting tree down and not even eliminating the roots - \$1,850.
 - By comparison, I had to have a hickory taken down near the house, about the same size as the maple, plus it had to be climbed due to its proximity to the house, plus logs

cut in firewood lengths and the remainder chipped; the total cost for that hickory was \$400. Considering that the maple the inspector took down was just cut and dropped, all parts remaining there on location, this price is incomprehensible.

- b) Perc testing for one sand mound, only one hole dug - \$ 3,250.
 - Standard industry price is about - \$800
- c) Cut roots out of tank, replace baffle - \$1,200
- d) Crush and backfill 2nd septic tank - \$1,800

During this whole experience, I learned that although there are certification trainings on how to carry out proper septic inspections that inspectors must participate in, in fact, there is no actual licensing of septic inspectors. I strongly believe that this is a significant problem and that the only way there is a chance to weed out sub-standard inspectors such as the one I had encountered is to institute a licensing system whereby inspectors must not only pass training courses, but they would be at risk of losing their license (and thus not being able to work on septic systems or carry out inspections) in the case they are found guilty of gross negligence and malpractice as my case described above would clearly demonstrate.

I most sincerely hope this licensing legislation passes, in order to hopefully help others not have to go through the same financial pain and emotional stress that I had to go through during my home purchase.

Sincerely,

Jennifer Freeman

ORENCO_JOHNSON_fav_SB0254

Uploaded by: JOHNSON, REED

Position: FAV

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Incorporated

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orenco.com

2/9/2020

Education, Health and Environmental Affairs

Reference: (Senate Bill 254) **In favor**

Honorable Committee Members,

I am Reed Johnson, Area Sales Manager for Orenco Systems Inc. We are a best available technology (BAT) manufacturer with hundreds of systems installed in the State of Maryland. I am a proud board member of the Maryland Onsite Wastewater Professional Association (MOWPA). As a manufacturer, we understand the importance of education, experience, and accountability. This bill provides for two essential industry needs, training, and accountability. As a concerned board member of MOWPA, I offer full support in the passage of SB254. As a Maryland (MDE) licensed operator of on-site systems, I offer my full support for SB254.

In our industry, our first fiduciary obligation is to the environment. Our other fiduciary duty is to the residences of Maryland and our Nation. Oddly enough, by making the environment first, we are protecting the second. This bill provides the requirements to inspect (BAT) systems correctly, thereby protecting the new homeowner. This bill offers minimal education requirements for inspections to protect the environment from noncompliance with local and state regulatory regulations.

I am a board member of the Virginia Onsite Wastewater Recycling Association (VOWRA) board. Virginia house bill 1266 is currently in committee. This bill addresses the same issues as in Maryland. As an industry, we recognize the need for accountability. Many inspectors have already acknowledged the need for education by attending classes voluntarily. A home inspector does not have the required knowledge to inspect BAT's or on-site sewage disposal without the necessary training we are asking you make mandentory.

This bill repeals the current law requirements related to the certification of those engaged in the business of property transfer inspections for on-site sewage disposal systems (commonly referred to as septic systems) and instead requires that by May 1, 2021, any person (unless exempted) who engages in the business of inspecting a septic system must obtain a septic inspection license issued by the Maryland Department of the Environment (MDE).

Reference Virginia house bill 1266: <https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+HB1266>

Best regards,



Area Sales Manager, Orenco Systems Inc.
Mowpa board member
Vowra board member
Maryland licensed onsite operator professional
757-645-8662 or rjohnson@orenco.com

SB0254_BaltimoreCounty_Support

Uploaded by: Olszewski, Jr., Johnn

Position: FAV



JOHN A. OLSZEWSKI, JR.
County Executive

CHARLES R. CONNER III, ESQ.
Chief Legislative Officer

KIMBERLY S. ROUTSON
Deputy Legislative Officer

JOEL N. BELLER
Assistant Legislative Officer

BILL NO.: **SB 254**

TITLE: **On-Site Sewage Disposal Systems - Inspection - Licensing**

SPONSOR: **Senator Young**

COMMITTEE: **Education, Health, and Environmental Affairs**

POSITION: **SUPPORT**

DATE: **February 11, 2020**

Baltimore County **SUPPORTS** Senate Bill 254 – On-Site Sewage Disposal Systems - Inspection - Licensing. This bill would require an individual to hold a license issued by the Department of the Environment to perform work on onsite sewage disposal systems, and standardize property transfer inspections for those systems.

Baltimore County has undertaken a massive overhaul of its sewage disposal systems in recent years, and the County understands the consequences of failing to properly inspect or maintain our sewage disposal systems. By establishing an on-site sewage disposal license, SB 254 would diminish the likelihood that non-qualified individuals would be working in a field that requires a fair degree of specialization.

Furthermore, this bill would introduce oversight to an as-yet unregulated field. Currently, property transfer inspections of on-site sewage disposal systems are not required by the State, leaving buyers vulnerable to unanticipated costs. Guaranteeing the inspection of sewage disposal systems by qualified inspectors will establish new standards for liability should those systems fail and lower the risk of failure for services that we too often take for granted.

Accordingly, Baltimore County requests a **FAVORABLE** report on SB 254. For more information, please contact Chuck Conner, Chief Legislative Officer, at 443-900-6582.

CLEANWATER_RANSON_FAV_SB0254

Uploaded by: RANSON, EMILY

Position: FAV

SB 254: On-Site Sewage Disposal Systems - Inspection - Licensing

Senate Education, Health, and Environmental Affairs Committee

February 11, 2020

Positon: Favorable

Dear Chairman Pinsky and Members of the Committee,

In Maryland, property transfer is one of the few times when a septic system is looked at and evaluated. Typically, a mortgage company requires that an inspection occurs as a condition of sale and this is a high risk moment for both homebuyers and homesellers - many things can go wrong, and a septic system is one piece in this intricate dance. Unfortunately, the quality and reliability of these inspections vary wildly through the state, and homeowners have limited recourse when something goes wrong.

Right now, in Maryland, these inspectors are required to take a course offered through the Maryland Department of the Environment, that was designed with the Maryland Onsite Wastewater Professionals' Association, the trade association for all things relating to septic systems. Most agree that the quality of this course is appropriate and should do an adequate job of preparing inspectors for the job at hand. Unfortunately, this course is where the oversight ends, and many inspectors are not conducting high quality inspections that can adequately judge the performance of a septic system.

Inspections are crucial for finding problems with septic systems. There are different types of failures that a proper inspection can find: pre-failure, temporary failure, and failure. Sometimes, an inspection can find that there is something going wrong with the system that can be fixed through a mechanical or behavioral change, but this has not yet led to the release of untreated waste. In other cases, the system may be in temporary failure; untreated waste is threatening public and environmental health and safety, but with a repair or behavior change the system can return to function properly. The worst type of failure requires significant repair to the system or drain field, and may require innovative technology to create a system that can treat waste on site. Since inspections are largely carried out only at property transfer, this is our one opportunity to make sure problematic septic systems, or systems that will soon be problematic, can be found and fixed.

Over our time working on issues relating to septic systems, we have heard many horror stories of homeowners who have been saddled with failing septic systems after their property inspector gave them passing grades. This is a major financial setback for the homeowner, and it is also a significant problem for water quality. **Until a failing septic system can be identified**

and fixed, it will continue to pollute nearby waterways with untreated human waste.

Maryland has a persisting problem with pollution from septic systems, both nutrient pollution from nitrogen as well as a bacterial problem. In areas around the state, including the Eastern Shore and Southern Maryland, there are hotspots of bacterial pollution that is likely coming from nearby, failing septic systems.

It is common for septic systems to fail in ways where a homeowner would likely not know that they have failed. Until waste backs up into a home or breaches the surface of the yard, the homeowner may not have any idea that their septic system has failed and is now posing a risk to others. Property transfer is the one time where inspections occur. **These inspections are our opportunity to make sure that the system is functioning and are not dumping untreated waste into surface waterways or groundwater.**

Therefore, we strongly urge that licensing be required in order to make sure that inspections are high quality, are able to identify problematic septic systems, and that there is recourse against inspectors who are not performing adequate quality inspections. We urge a favorable report on SB254.

Thank you,

Audubon Naturalist Society

Clean Water Action

Maryland League of Conservation Voters

Maryland Sierra Club

ShoreRivers

Watts Branch Watershed Alliance

Contact: Emily Ranson, Clean Water Action, eranson@cleanwater.org, 443-562-2832

CRSEMLETEXCAVATING_SEMLER_FAV_SB0254

Uploaded by: SEMLER, CHARLES

Position: FAV



301-416-0414

301-824-2780

11664 Mapleville Road, Smithsburg, MD 21783

Fax 301-824-3520

Senate Bill SB0254

Senate Education Health and Environmental Affairs

Position : IN FAVOR

I have spent the past 40 years of my life working in all the western counties of Maryland and a few of the central counties performing septic system installations, maintenance, designs and inspections and I have witnessed the shock of many homeowners discovering that the septic inspection they paid for was a complete waste of money performed by a person who had no or very little experience in the septic industry. When they learn there is no oversight or licensing or any course of legal action for help with the problem or to simply try and stop the bad actor the 2nd wave of shock sets in and for the really unlucky owners who discover the cost to fix there problem is a Innovative & Alternative system for \$ 35,000.00 to \$ 50,000.00 the shock turns to sickness. No homeowner should ever suffer these consequences while the person who placed them in this horrible situation continues on paid in full with no chance of being held accountable and simply waits on his next victim.

The mortgage company's require the buyers to have a septic system inspection completed because they fully realize with no working system the house is worthless so I think the state should try and be sure the inspectors have some oversight to assure a certain level of integrity be maintained for standard consumer protection.

C.R.SEMLER Inc.

Charles R Semler Jr.
Charles R Semler Jr.

CPD_KarenStraughn_FAV_SB 254

Uploaded by: Straughn, Karen

Position: FAV

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General



WILLIAM D. GRUHN
Chief
Consumer Protection Division

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

February 11, 2020

Writer's Direct Dial No.

410-576-7942
Fax: 410-576-7040

To: The Honorable Paul G. Pinsky
Chair, Education, Health, and Environmental Affairs Committee

From: Karen S. Straughn
Consumer Protection Division

Re: Senate Bill 254 – On-Site Sewage Disposal Systems – Inspections – Licensing -
(SUPPORT)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of Senate Bill 254 submitted by Senator Ronald N. Young. The bill requires licensing of inspectors of on-site sewage disposal systems and establishes training and eligibility criteria. In addition, the bill provides for penalties for violations of the act or incomplete inspections in the event that the system fails within six months of the incomplete inspection.

The purchase of an on-site sewage disposal system is one of the most costly items homeowners may experience during their ownership. It is important that the homeowner can ensure that the individual doing an inspection of the system has been properly trained and licensed, and will ensure that the inspection is complete. The failure to properly inspect can result in system failures that are not only costly but also harmful to the environment. For these reasons, those who contract to do this work should be held responsible for any failure to properly complete the job.

For these reasons, we ask that the Education, Health, and Environmental Affairs Committee return a favorable report on this bill.

cc: The Honorable Ronald N. Young
Members, Education, Health, and Environmental Affairs Committee



VONGUNTEN_FAV_SB0254

Uploaded by: VON GUNTEN, GENE

Position: FAV

Gene von Gunten

SB 254 On-Site Sewage Disposal Systems-Inspection-Licensing

Support

Senator Paul G. Pinsky
Chairman, Education, Health, and Environmental Committee
Maryland General Assembly

Dear Senator Pinsky:

I would like to submit comments in favor of SB 254. I reside in Carroll County, but for over 28 years I was involved in local environmental health regulation- first as a Registered Environmental Health Specialist for Frederick County (16.5 years); and later in a similar capacity with the Montgomery County Department of Permitting Services (the delegated authority for on-site sewage disposal matters). I retired in 2018 as Manager of the Well & Septic Section at MCDPS. I have resided my entire life in homes that were (are) served by individual well and septic systems.

In my professional capacity with Montgomery County, I had the occasion to meet Attorney General Byron Frosh in 1997- at that time the A.G was a State Delegate from Montgomery County and in practice as a private attorney. Mr. Frosh had been hired by a young couple who had unwittingly purchased an older home and had discovered the home had an illegal “**straight pipe**” that discharged the home’s sewage into a stream. Prior to the sale, an inexperienced private inspector had visited the property and declared the septic system functional. Unfortunately, the home had no such septic system.

Subsequent soil evaluations indicated the home, purchased for about \$150,000, needed an advanced “**drip disposal**” septic system with a price tag over **\$45,000**. Needless to say, the young couple did not have the funds for this; and did not have adequate remaining credit to borrow the funds.

On that occasion, I challenged Delegate Frosh to draft proposed legislation to stop abuses of this nature. To my surprise, he agreed, and in the next legislative session Frosh introduced a comprehensive septic inspection bill- not unlike SB 254. Unfortunately, the Frosh bill met with stiff opposition from a surprising source: the **Maryland Department of the Environment**. As a result, a much simpler bill was enacted on the final day of the session.

The law that took effect on July 1, 1999 was a very simple affair; and it required private septic inspectors to simply take a one-day course approved by MDE. The law has proven to be an improvement over the unregulated activity that took place prior to 1999; but abuses continue to occur as there is no requirement for a license; no requirement for continuing education; and no provision for any penalty for bad behavior. SB 254 would rectify this and restore the “spirit” of the original Frosh legislative proposal. I have had the occasion to discuss this with the Attorney General and he is much in favor of this upgrade.

Please allow me to relate what this legislation means to thousands of Maryland residents who purchase existing homes each year that are served by septic systems. I have been involved with hundreds of home buyers over the past 30 years who relied upon the “professional” inspections conducted by private inspectors; and far too many found out the hard way that an “**unprofessional**” inspection could lead to their **financial ruin**. Please set aside for the moment the environmental impact of these inadequate or flawed inspections- this is a **CONSUMER PROTECTION** issue at its core. SB 254 **WILL** save Maryland home purchasers emotional and financial heartache.

Sincerely,

Gene von Gunten

Westminster, MD

MACo_Alex_FWA_SB0254

Uploaded by: Butler, Alex

Position: FWA



Senate Bill 254

On-Site Sewage Disposal Systems - Inspection - Licensing

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Education, Health, and Environmental
Affairs Committee

Date: February 11, 2020

From: Alex Butler

The Maryland Association of Counties (MACo) **SUPPORTS SB 254 WITH AMENDMENTS**. The bill would require the Maryland Department of the Environment (MDE) to create an onsite wastewater property transfer license and training requirements for septic system inspectors.

For homes with a septic or other on-site sewage disposal system, a proper inspection is critical as a failing system can cost a homebuyer thousands or tens of thousands of dollars in repairs. Currently, there are few standards in place regarding inspector training and the only recourse a homebuyer has against a bad inspection is the costly option of taking the inspector to court.

MACo, after consultation with county environmental health directors, is aware of numerous instances where inspectors with little or no training signed off on a septic system that was clearly failing or in need of major repairs. Due to this systemic problem, MACo believes that licensing and training requirements are needed for inspectors.

MACo has worked with the bill's sponsor, stakeholders, and county environmental health directors on amendments to clarify and correct some of the bill's provisions, including the establishment of appropriate financial penalties. Any penalties collected by MDE would go into the septic account of the Bay Restoration Fund.

SB 254 would address the systemic issue of improper septic inspections by transfer inspectors by requiring MDE to establish reasonable licensing and training requirements. For these reasons, MACo requests the Committee give SB 254 a report of **FAVORABLE WITH AMENDMENTS**.

MBIA_Lori Graf_FWA_SB0254

Uploaded by: Graf, Lori

Position: FWA

February 11, 2020

The Honorable Paul G. Pinsky
Chairman, Senate Education, Health, and Environmental Affairs Committee
Senate Office Building, 2 West
11 Bladen Street
Annapolis, MD 21401

RE: Support of Senate Bill 254 (On-Site Sewage Disposal Systems - Inspection - Licensing) with Amendment

Dear Chairman Pinsky:

The Maryland Building Industry Association, representing 100,000 employees of the building industry across the State of Maryland, supports Senate Bill 254 (On-Site Sewage Disposal Systems - Inspection - Licensing) with amendments.

This measure requires anyone engaged in the inspection of septic systems to obtain a septic inspection license from the Maryland Department of the Environment (MDE) by May of 2021, and established criminal penalties for violators of this bill.

While we understand the importance of insuring that septic systems are constructed, installed, and maintained properly by professionals, this measure is redundant for certain industries. Many of our industry's plumbing contractors install and inspect septic systems, and already go through an extensive licensing and regulatory process as part of obtaining their Master Plumber/Gasfitter license. They are also currently required to complete and pass a certification class to perform new Best Available Technology (BAT) septic system installations, which are administered through the BAT manufacturer. Since master plumbers already must meet significant licensing requirements, we request an amendment exempting master plumbers from the additional and redundant requirements of this bill.

The penalties for violating this section are also excessive, unfair, and unclear. Mandating that a violation of the will be a misdemeanor is excessive; criminal charges are not necessary to encourage good actors. The \$10,000 fine is also unclear. MBIA supports the Maryland Association of Counties' (MACO) amendments which remove the misdemeanor penalty, and clarify that the fine is administrative. Any money collected should go into the septic account of the Bay Restoration Fund, where it could be used to further the bill's goal.

MBIA respectfully requests the Committee adopt these amendments and give this measure a favorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Senate Education, Health, and Environmental Affairs Committee Members

MDA_Jo A_Grundy_FWA_SB0254

Uploaded by: Grundy, Jo A

Position: FWA

Senate Bill 254 – On-Site Sewage Disposal Systems – Inspection – Licensing
Jo Ann Grundy, Founder of CROSS
Support with Amendments

Written Testimony for February 11, 2020

Thank you for this opportunity to voice my support with amendments for this bill. My amendments have been submitted as an attachment to this testimony. I have experience in writing environmental regulations and have worked in government planning, engineering and construction. In the past year, I have become an advocate for property owners with septic systems. This is the result of my own experience with the septic industry's unethical practices. Because of this, I founded CROSS (Citizens for the Responsible Oversight of Septic Systems), which is based on a similar organization in Washington State (Citizens for Optimizing OSS Management Washington - COOMWA).

Septic oversight has increased dramatically without notification to property owners, who are expected to bear the financial burden, which can cost tens of thousands of dollars, when their system fails inspection. While I support licensing septic inspectors to set standards for inspection and hold them more accountable, there needs to be a code of ethics and clear standards of practice, established by MDE.

This bill will prohibit an individual from inspecting a septic system until they hold a license issued by MDE. Currently, a septic inspector is required by law to complete a course of instruction, approved by MDE. Many such inspectors work for companies that maintain, install, and/or repair septic systems, which is a conflict of interest. Unlike a home inspector, who is bound by a code of ethics under the Code of Maryland Regulations (COMAR – 09.36.06.01 – 09.36.06.04 – see attached) there is nothing prohibiting a septic inspector from profiting from a system that they fail. General home inspectors must wait at least one year before performing any work related to their inspection. The current law, nor this proposed bill require septic inspectors to abide by a code of ethics. In addition to my own experience, I have talked to others who have personal experiences with unethical practices by septic companies when conducting real estate inspections.

In addition, this bill also includes language to hold inspectors liable if they perform an incomplete inspection and the system fails within 6 months. An "incomplete" inspection is subject to interpretation and may result in systems failing in order for inspectors to avoid the potential for liability.

In addition, this bill mentions that training includes instruction as to whether the system is in compliance with statutory and regulatory requirements. It does not address functioning and allowable systems installed prior to laws and regulations.

During my meeting with Secretary Grumbles last year, he acknowledged that a widely used MDE approved inspector training manual developed by the Maryland Onsite Wastewater Professionals Association (MOWPA) was in conflict with laws and regulations. The MOWPA manual has resulted in functioning systems with no evidence of water contamination to automatically fail an inspection.

Some in the septic and regulatory industry would like to see more septic systems replaced using Best Available Technology (BAT). This would involve the installation of a BAT tank and absorption field. A

BAT tank is five times more expensive than a conventional tank and requires regular maintenance and electricity to operate and may detract home buyers. A BAT tank's focus is only nitrogen reduction. It does not reduce other nutrients or pathogens from the waste. The Bay Restoration funding only covers the material cost of the BAT tank itself and funding is limited. Installation of the BAT tank and absorption field may cost tens of thousands of dollars.

According to the Chesapeake Bay Program's website, it is estimated that five percent of nitrogen loads are from septic tanks compared to 20 percent from municipal and industrial wastewater. This correlates to the roughly 25 of Maryland homes served by septic systems. No method of sewage disposal is perfect. Combined sewer overflows contaminate surrounding water bodies. Damaged and deteriorated sewer lines contaminate water resources also.

I believe that septic owners such as myself would support this bill with amendments to include a requirement to abide by a code of ethics, the specification that older systems are not required to meet current statutory or regulatory requirements, and clarification of conditions when a licensed inspector would be held liable if a system fails within six months of the inspection.

Without a mandate from US EPA, every state in the US. is handling septic oversight differently. Some states, like New Jersey, are passing legislation that places an unreasonable financial burden on the individual property owner, which in some cases has led to home foreclosure, bankruptcy, and abandonment of properties. Other states, like Hawaii, are taking a well-planned approach by phasing out older systems gradually and with financial support. My hope is that Maryland follows their example and chooses the right path forward. For the next legislative session, I would like to see a bill introduced to begin to address older, failing septic systems. From Hawaii's example, and my previous experience in watershed planning, public outreach, and regulatory oversight, I recommend an inventory by each local health organization to identify all septic systems, further classified by age and type based on permit and tax records on file. With such information, homeowners could be mailed regarding the proper use, maintenance, and costs of upgrading or replacing their system. The inventory of septic systems could be mapped to prioritize funding for expanding sewer service or upgrade/replacement of older systems. Unfortunately, older systems are being forgotten and sewer capacity is allocated for new construction. In addition, financial incentives to promote alternatives beyond BAT tanks, and measures to reduce the load of sewage from each household, such as low flow and composting toilets and gray water recycling is also recommended.

Thank you.

AMENDMENT FOR SB 254

(Prepared by Jo Ann Grundy with CROSS for testimony on February 11, 2020)

Explanation: This amendment would add a requirement that all licensed inspectors abide by a code of ethics, similar to licensed home inspectors to avoid conflicts of interest. It also would specify that previously installed systems are not expected to meet current statutory or regulatory requirements. Lastly, the amendment would clarify the conditions when a licensed inspector would be held liable if a system fails within six months of the inspection.

AMENDMENT NO. 1 (Adds a code of ethics requirement analogous to a general home inspector.)

On page 2, line 11, add another entry that states “ALL LICENSED SEPTIC INSPECTORS SHALL ABIDE BY A CODE OF ETHICS PROVIDED BY THE DEPARTMENT.”

AMENDMENT NO. 2 (Adds language to clarify that previously installed systems are not expected to meet current statutory or regulatory requirements.)

On page 2, in lines 24, after “REQUIREMENTS” insert “AT THE TIME THE SYSTEM WAS INSTALLED”

AMENDMENT NO. 3 (Clarifies conditions when a licensed inspector would be held liable.)

On page 3, line 11, after “CONDUCTS AN” strike “AN INCOMPLETE INSPECTION” and insert “INSPECTION NOT IN ACCORDANCE WITH THE INSPECTION FORMAT PROVIDED BY THE DEPARTMENT”

09.36.06.01

.01 Responsibilities to the Public.

A home inspector shall:

- A. Act as an impartial third party;
- B. Discharge the home inspector's duties:
 - (1) With integrity and fidelity to the public;
 - (2) With fairness and objectivity to all parties; and
 - (3) Without bias to any party;
- C. Always act in good faith towards a client;
- D. Express an opinion only if it is based on practical experience and personal knowledge;
- E. Promptly inform a client of any business association, interest, or circumstance that may influence the home inspector's judgment or the quality of the home inspector's inspection service to the client; and
- F. Make every effort to uphold, maintain, and improve the professional practice, integrity, and reputation of the home inspection industry.

09.36.06.02

.02 Prohibitions.

A. A home inspector may not:

(1) Except under circumstances in which the safety, health, property, or welfare of the public is endangered, disclose any information concerning the results of an inspection without the approval of the client for whom the inspection was performed;

(2) Accept compensation, financial or otherwise, from more than one interested party for the same service on the same property unless the home inspector makes full disclosure to all interested parties and obtains the consent of all interested parties; or

(3) Accept or offer a commission or allowance, directly or indirectly, to or from another party dealing with the client in connection with home inspection services for which the home inspector is responsible.

B. A home inspector may not:

(1) Sell or offer to sell products for the repair of defects or the correction of deficiencies disclosed during an inspection to the client for a period of 1 year from the date of the inspection;

(2) Provide or offer to provide services to repair defects or correct deficiencies disclosed during an inspection for a period of 1 year from the date of the inspection; or

(3) Express an appraisal or opinion of the market value of the inspected property within the context of the inspection.

09.36.06.04

.04 Conflicts of Interest.

A. A home inspector shall avoid conflicts of interest with a client or an owner of property that is subject to an inspection by the home inspector.

B. If a conflict appears unavoidable, the home inspector shall disclose promptly and fully all circumstances of the conflict to the client.

MDCOLEHD_Evelyn_FWA_SB0254

Uploaded by: Hoban, Evelyn

Position: FWA

An Affiliate of
the Maryland Association
of Counties, Inc.



Reply to:

February 11, 2020

The Honorable Ronald Young
Chair, Education, Health, and Environment Affairs
2 West
Miller Senate Office Building
Annapolis, MD 21401

Re: SB 254 – On-Site Disposal Systems – Inspections

Dear Senator Young and Committee Members:

The Maryland Conference of Local Environmental Health Directors (the Conference) **supports SB 254 with amendments** with respect to the regulation of on-site disposal system inspections.

The Conference welcomes the intent to increase accountability for licensure of on-site sewage disposal system septic systems. We support the following amendments to the bill:

9-217.2 (A) License holder is defined as one who engages in on-site sewage disposal system property transfer inspections.

9-217.2 (D) (2)(I)1. Change “or” to “and”

9-217.2.(F)1.Delete guilty of a misdemeanor and on conviction, inserting an administrative fine.

9-217.2(F)3. Delete imposed by a court and insert any administrative fine collected by the Department. Delete Maryland Clean Water and insert on-site sewage disposal system account of the Bay Restoration Fund established under § 9-1605.2(H) of this article.

Delete and used to support the costs associated with implementing the requirements of this section.

9-217.2.(G) Delete entire section.

9-217.2. Insert H. to state: The Department shall adopt regulations to implement the provisions of this section.

Accordingly, we request the Committee **SUPPORT SB 254 WITH AMENDMENTS.**

Thank you for the opportunity to share our views on this matter. If you have further questions concerning this written testimony, please contact me at 301-883-7602.

Respectfully,

Evelyn Hoban, President
Maryland Conference of Local Environmental Health Directors

SB 254_REALTORS_UNF_Septic

Uploaded by: CASTELLI, BILL

Position: UNF



Senate Bill 254 – On-Site Sewage Disposal Systems – Inspection -- Licensing

Position: Oppose

The Maryland REALTORS® opposes SB 254 which regulates septic inspectors.

Although REALTORS® do not oppose the licensing of septic inspectors, the REALTORS® are concerned over the following provisions. First, the bill states that an incomplete inspection would make an inspector liable for the cost of repairing or replacing the on-site sewage disposal system if the system fails within six months of the inspection. However, the bill leaves it up to MDE to define what an inspection constitutes.

The bill also doesn't make clear what a failed system means. Is it a failure of the entire system or just part of the system? An inspector should not be liable for a failure of an easily replaced part. More importantly, the inspector should not be liable for a failure caused by an owner of the system.

Although the bill has a delayed effective date until May 2021, the REALTORS® are concerned that it won't be enough time to pass regulations and train enough inspectors statewide to ensure that enough inspectors will be available for the market.

Finally, the REALTORS® believe that a provision in similar legislation, HB 136, creating a Board of On-Site Wastewater Professionals should be added. It will ensure that experienced industry members will give important input in the creation of inspection protocols and training.

For those reasons, the REALTORS® recommend an unfavorable report.

**For more information contact bill.castelli@mdrealtor.org or
susan.mitchell@mdrealtor.org**

MDE_TylerAbbott_LOC_SB254

Uploaded by: ABBOTT, TYLER

Position: INFO



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

February 10, 2020

The Honorable Paul G. Pinsky, Chair
Education, Health, and Environmental Affairs Committee
2 West, Miller Senate Office Building
Annapolis, Maryland 21401

Re: Senate Bill 254 – On-Site Sewage Disposal Systems – Inspection – Licensing

Dear Chairman Pinsky and Members of the Committee:

The Maryland Department of the Environment (MDE) has reviewed Senate Bill 254, entitled On-Site Sewage Disposal Systems – Inspection - Licensing and would like to offer a letter of concern about this legislation.

Senate Bill 254 proposes to repeal §9-217.1 of the Environment Article, which would nullify the current process of obtaining a license for performing septic inspection for property transfers and would require all current licensees to be recertified through the new proposed process as required by this legislation. Additionally, the Department would need to develop and adopt regulations governing the eligibility and minimum training required for the new onsite property transfer inspector license. The legislation expands the need for a license for all people inspecting onsite septic systems. The regulations would need to be completed by January 1, 2021 and many of the certifications for the new licenses would need to be completed by July 1, 2021. Currently, there are 1,125 Certified Inspectors that would need to be relicensed. MDE also anticipates an additional 1,175 people would apply to become certified licensed inspectors.

At current staffing levels, MDE does not have the resources to create and implement the new licensing process in the allotted time period. The legislation as proposed does not provide any funding or positions to implement the new process. Additionally, due to the increase number of certified licensed inspectors and the more rigorous training to identify compliant status of on-site systems, the Department would anticipate an increase in the amount of on-site septic systems found to be in non-compliance. Many of these non-compliant septic systems will require innovative and alternative technology (IAT). The Department typically provides their expertise and oversight for IAT septic projects. Additional staff would also be required to maintain our current level of oversight.

Thank you for your consideration. We will continue to monitor Senate Bill 254 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at tyler.abbott@maryland.gov.

Sincerely,



Tyler Abbott

cc: The Honorable Ronald N. Young