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**By: Delegates Guns, Owings, and Hubbard**

Introduced and read first time: February 12, 1996

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Environment - Maryland Oil Disaster Containment, Clean-Up and Contingency Fund,**  
3 **Underground Storage Tank Upgrade and Replacement Fund, and Oil Contaminated Site**  
4 **Environmental Cleanup Fund**

5 FOR the purpose of altering the per barrel fee for oil transferred in the State and  
6 credited to the Maryland Oil Disaster Containment, Clean-Up and Contingency  
7 Fund; requiring the Secretary of the Environment to transfer money from the  
8 Underground Storage Tank Upgrade and Replacement Fund to the Oil  
9 Contaminated Site Environmental Cleanup Fund in certain fiscal years; requiring  
10 the Secretary to transfer money from certain funds in a certain order; providing that  
11 the Secretary may transfer certain money under certain conditions; requiring the  
12 Department of the Environment to return recovered moneys to certain funds in a  
13 certain order; requiring funds remaining in the Underground Storage Tank  
14 Upgrade and Replacement Fund to be credited to certain funds by a certain date  
15 and in a certain manner; requiring loan repayments to be credited to a certain fund  
16 after a certain date; authorizing the Department to waive or reduce certain fees  
17 under certain circumstances; altering certain deductibles for the owners or  
18 operators of underground storage tanks; providing that the Department may obtain  
19 certain funds from the Oil Contaminated Site Environmental Cleanup Fund under  
20 certain conditions; providing that an applicant who has not submitted a certain form  
21 to the Department by a certain date will not be eligible for a loan; requiring the  
22 Department to undertake certain reviews and make certain recommendations to  
23 certain committees; requiring the Department to convene a certain group to make  
24 certain recommendations; clarifying that attorneys' fees and litigation costs shall be  
25 reimbursed to the State by a certain person; making stylistic changes; providing for  
26 the effective date of this Act; and generally relating to the Maryland Oil Disaster  
27 Containment, Clean-Up and Contingency Fund, the Underground Storage Tank  
28 Upgrade and Replacement Fund, and the Oil Contaminated Site Environmental  
29 Cleanup Fund.

30 BY repealing and reenacting, with amendments,  
31 Article - Environment  
32 Section 4-411, 4-602, 4-606, 4-607, 4-705, and 4-706  
33 Annotated Code of Maryland  
34 (1993 Replacement Volume and 1995 Supplement)

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

3 **Article - Environment**

4 4-411.

5 (a) In this section the following words and phrases have the meanings indicated.

6 (1) "Fund" means the Maryland Oil Disaster Containment, Clean-Up and  
7 Contingency Fund.

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

11 (3) "Barrel" means any measure of petroleum products or its by-products  
12 which consists of 42.0 U.S. gallons of liquid measure.

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

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

19 (i) Based on a [0.75 cents] 1 CENT per barrel fee for oil transferred  
20 in the State and credited to the Maryland Oil Disaster Containment, Clean-Up and  
21 Contingency Fund; and

22 (ii) [Until July 1, 1996, based on an additional 5.0 centsper barrel fee  
23 for oil, except heating oil, transferred in the State and sold to oil marketing firms credited  
24 to the Underground Storage Tank Upgrade and Replacement Fund under Subtitle 6 of  
25 this title.] UNTIL JULY 1, 2000, BASED ON AN ADDITIONAL 0.5 CENTS PER BARREL FEE  
26 FOR OIL TRANSFERRED IN THE STATE AND CREDITED TO THE MARYLAND OIL  
27 DISASTER CONTAINMENT, CLEAN-UP AND CONTINGENCY FUND.

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

34 (3) When the balance in the Maryland Oil Disaster Containment, Clean-Up  
35 and Contingency Fund from the monthly license fees paid under paragraph(1)(i) of this  
36 subsection into the Fund equals or exceeds a maximum limit of \$5,000,000, collection of  
37 subsequent monthly license fees under paragraph (1)(i) of this subsection shall be abated  
38 until:

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

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

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

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

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

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

22 (f) There is a Maryland Oil Disaster Containment, Clean-Up and Contingency  
23 Fund for the Department to use to develop equipment, personnel, and plans; for  
24 contingency actions to respond to, contain, clean-up, and remove from the land and  
25 waters of the State discharges of oil, petroleum products, and their by-products into,  
26 upon, or adjacent to the waters of the State; and restore natural resources damaged by  
27 discharges. The cost of containment, clean-up, removal, and restoration, INCLUDING  
28 ATTORNEYS' FEES AND LITIGATION COSTS, shall be reimbursed to the State by the  
29 person responsible for the discharge. The reimbursement shall be credited to the Fund.  
30 The Fund shall be limited in accordance with the limits set forth in this section. To this  
31 sum shall be credited every license fee, fine, if imposed by the circuit court for any county,  
32 and any other charge related to this subtitle. To this Fund shall be charged every expense  
33 the Department of the Environment has which relates to this section.

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

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

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

4 (3) Development of containment and clean-up equipment, plans, and  
5 procedures in accordance with the purposes of this section.

6 (4) Paying insurance costs by the State to extend or implement the benefits  
7 of the Fund.

8 (h) The Department shall provide the standing committees of the Maryland  
9 General Assembly with primary jurisdiction over this section with a status report on the  
10 Fund on or before [July] OCTOBER 1 of each year. The report shall include an  
11 accounting of all moneys expended for each of the purposes specified insubsection (g) of  
12 this section.

13 4-602.

14 (a) On or before September 1, 1991 AND UNTIL JULY 1, 1996, a fee shall be paid  
15 annually to the Department for each underground storage tank in the State unless the  
16 tank is used exclusively for the production, distribution, or sale of petroleum by the owner  
17 of the tank.

18 (b) The tank fee imposed under this section [shall] MAY not exceed:

19 (1) \$100 for each tank having a maximum capacity of under 1,100gallons;  
20 and

21 (2) \$200 for each tank having a maximum capacity of 1,100 gallons or more.

22 (C) THE TANK FEE IMPOSED UNDER THIS SECTION MAY BE WAIVED OR  
23 REDUCED PROVIDED THAT:

24 (1) THE OWNER OF THE TANK HAS NOT BEEN BILLED FOR THE FEE FOR  
25 2 CONSECUTIVE YEARS; AND

26 (2) BY OCTOBER 1, 1996, THE OWNER OF THE TANK UPGRADES,  
27 REPLACES, OR REMOVES THE TANK TO MEET THE TECHNICAL REQUIREMENTS OF  
28 THE UNDERGROUND STORAGE TANK REGULATION ADOPTED UNDER SUBTITLE 4  
29 OF THIS TITLE.

30 [(c)] (D) The fees received under this section and under § 4-411(c)(1)(ii) of this  
31 subtitle shall be paid into the Underground Storage Tank Upgrade and Replacement  
32 Fund.

33 4-606.

34 (a) To be eligible for a loan under this subtitle, an applicant shall:

35 (1) Be in substantial compliance with all State and federal laws and  
36 regulations governing the installation, operation, and use of underground storage tanks;  
37 and

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1 (2) Submit a [final application] COMPLETED LOAN PROCESSING FORM to  
2 the Department on or before June 30, 1998.

3 (b) A loan under this subtitle may not be provided to upgrade or replace any  
4 underground storage tank that was not registered with the Department as provided in §  
5 4-411.1 of this title on or before July 1, 1991, unless the Secretary determines that special  
6 circumstances exist.

7 4-607.

8 (a) [Unless further action is taken by the General Assembly, no] NO fee may be  
9 imposed AFTER JUNE 30, 1996 [or any] AND NO loan MAY BE made under the provisions  
10 of or for the purposes of this subtitle, or in accordance with regulations adopted under  
11 this subtitle, after December 31, 1998.

12 (B) (1) IN FISCAL YEAR 1997, THE SECRETARY SHALL TRANSFER \$3 MILLION  
13 FROM THE UNDERGROUND STORAGE TANK UPGRADE AND REPLACEMENT FUND  
14 TO THE OIL CONTAMINATED SITE ENVIRONMENTAL CLEANUP FUND ESTABLISHED  
15 UNDER SUBTITLE 7 OF THIS TITLE.

16 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IN  
17 FISCAL YEAR 1998, THE SECRETARY SHALL TRANSFER \$3 MILLION FROM THE  
18 UNDERGROUND STORAGE TANK UPGRADE AND REPLACEMENT FUND TO THE OIL  
19 CONTAMINATED SITE ENVIRONMENTAL CLEANUP FUND ESTABLISHED UNDER  
20 SUBTITLE 7 OF THIS TITLE.

21 (3) IF A NUMBER OF TANK OWNERS SUBMIT LOAN PROCESSING FORMS  
22 AND MONEYS ARE NOT SUFFICIENTLY AVAILABLE FOR MAKING THE  
23 UNANTICIPATED LOANS, THE SECRETARY MAY ONLY RETAIN AN AMOUNT OF  
24 MONEY, UP TO \$3 MILLION, IN THE UNDERGROUND STORAGE TANK UPGRADE AND  
25 REPLACEMENT FUND IN FISCAL YEAR 1998 TO COVER THE LIABILITY OF THE  
26 UNANTICIPATED LOANS.

27 (C) (1) THE SECRETARY MAY ONLY TRANSFER MONEYS FROM THE  
28 UNDERGROUND STORAGE TANK UPGRADE AND REPLACEMENT FUND, FIRST, AND  
29 THEN FROM THE OIL CONTAMINATED SITE ENVIRONMENTAL CLEANUP FUND TO  
30 THE MARYLAND OIL DISASTER CONTAINMENT, CLEAN-UP AND CONTINGENCY  
31 FUND ESTABLISHED UNDER SUBTITLE 4 OF THIS TITLE.

32 (2) THE SECRETARY MAY ONLY TRANSFER THE MONEY, AS PROVIDED  
33 FOR IN PARAGRAPH (1) OF THIS SUBSECTION, IF:

34 (I) MONEY IN THE MARYLAND OIL DISASTER CONTAINMENT,  
35 CLEAN-UP AND CONTINGENCY FUND, RESERVED FOR THE CIRCUMSTANCES SET  
36 FORTH IN SUBSECTION (D)(3) OF THIS SECTION, FALLS BELOW \$250,000 BECAUSE OF  
37 OIL SPILL INCIDENTS, PROVIDED THAT THE RESERVE BALANCE OF THE FUND MAY  
38 NOT EXCEED \$1 MILLION AFTER THE TRANSFER; OR

39 (II) THERE IS A MAJOR OIL SPILL AND SUFFICIENT FUNDS ARE NOT  
40 AVAILABLE IN THE MARYLAND OIL DISASTER CONTAINMENT, CLEAN-UP AND  
41 CONTINGENCY FUND.

1 (3) THE MONEY TRANSFERRED TO THE MARYLAND OIL DISASTER  
2 CONTAINMENT, CLEAN-UP AND CONTINGENCY FUND, AS PROVIDED FOR IN  
3 PARAGRAPH (2)(II) OF THIS SUBSECTION, MAY NOT EXCEED THE DEPARTMENT'S  
4 DIRECT COSTS TO REMEDIATE THE MAJOR OIL SPILL.

5 (4) IF MONEYS TRANSFERRED UNDER PARAGRAPH (2) OF THIS  
6 SUBSECTION ARE RECOVERED, THE DEPARTMENT SHALL RETURN THE RECOVERED  
7 MONEYS TO THE FUNDS IN THE FOLLOWING ORDER:

8 (I) TO THE MARYLAND OIL DISASTER CONTAINMENT, CLEAN-UP  
9 AND CONTINGENCY FUND AS NEEDED TO MAINTAIN A RESERVE BALANCE NOT TO  
10 EXCEED \$1 MILLION;

11 (II) TO THE OIL CONTAMINATED SITE ENVIRONMENTAL CLEANUP  
12 FUND, IN AN AMOUNT NOT TO EXCEED THE AMOUNT TRANSFERRED TO THE  
13 MARYLAND OIL DISASTER CONTAINMENT, CLEAN-UP AND CONTINGENCY FUND  
14 UNDER PARAGRAPH (2) OF THIS SUBSECTION; AND

15 (III) TO THE UNDERGROUND STORAGE TANK UPGRADE AND  
16 REPLACEMENT FUND, ANY REMAINING RECOVERED MONEYS.

17 [(b)] (D) (1) On or after January 1, 1999 BUT NO LATER THAN JUNE 30,1999,  
18 any funds remaining in the Underground Storage Tank Upgrade and Replacement Fund  
19 shall be credited IN THE FOLLOWING MANNER:

20 (I) 50% to the Maryland Oil Disaster Containment, Clean-Up and  
21 Contingency Fund; AND

22 (II) 50% TO THE OIL CONTAMINATED SITE ENVIRONMENTAL  
23 CLEANUP FUND.

24 (2) ANY FUTURE LOAN REPAYMENTS MADE ON OR AFTER JANUARY 1,  
25 1999 SHALL BE CREDITED TO THE MARYLAND OIL DISASTER CONTAINMENT,  
26 CLEAN-UP AND CONTINGENCY FUND.

27 (3) THE FUNDS IDENTIFIED IN PARAGRAPHS (1)(I) AND (2) OF THIS  
28 SUBSECTION SHALL ONLY [to] be used by the Department for cases in which a  
29 responsible party cannot be located or the responsible party does not have sufficient  
30 assets to take adequate remedial action OR REFUSES TO TAKE REMEDIAL ACTION for:

31 [(1)] (I) The clean-up and removal of an underground storage tank; or

32 [(2)] (II) The clean-up of a petroleum release.

33 4-705.

34 (a) The owner or operator of an underground oil storage tank may apply to the  
35 Fund for reimbursement, on or after October 1, 1993, for usual, customary, and  
36 reasonable costs incurred on or after October 1, 1993 in performing site rehabilitation.

37 (b) Any reimbursement from the Fund FOR APPLICATIONS APPROVED ON OR  
38 AFTER JULY 1, 1996 is subject to:

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1 (1) For owners or operators of six tanks or fewer, a deductible of [\$15,000]  
2 \$7,500;

3 (2) For owners or operators of more than 6 but not more than 15 tanks, a  
4 deductible of [\$20,000] \$10,000;

5 (3) For owners or operators of more than 15 but not more than 30 tanks, a  
6 deductible of [\$30,000] \$15,000;

7 (4) For owners or operators of more than 30 tanks, a deductible of  
8 [\$40,000] \$20,000; and

9 (5) A limit of \$125,000 per occurrence.

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

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

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

16 (3) Certify that the discharge is from a tank registered under § 4-411.1 of  
17 this title.

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

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

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

27 4-706.

28 (a) If the Department has assumed control of an oil spill situation involving an  
29 underground oil storage tank under this title, the Department may obtain from the Fund,  
30 [on or after October 1, 1993] FOR SITE REHABILITATIONS THAT MEET THE SAME  
31 CLEANUP PRIORITY AS THOSE SITE REHABILITATIONS REIMBURSED UNDER § 4-705  
32 OF THIS SUBTITLE:

33 (1) Reimbursement for usual, customary, and reasonable costs incurred in  
34 performing site rehabilitation;

35 (2) A guarantee of payment to a qualified contractor for the usual,  
36 customary, and reasonable costs of performing site rehabilitation; or

37 (3) Matching funds required under § 9003(h) of the Federal Solid Waste  
38 Disposal Act for the Federal Leaking Underground Storage Tank Program.

1 (b) The per occurrence deductible or limitation provided under § 4-705(b) of this  
2 subtitle does not apply to the reimbursement or guarantee to a contractor under this  
3 section.

4 (c) In order to encourage that site rehabilitation activities be undertaken by an  
5 owner, operator, or other person responsible for a discharge from an underground oil  
6 storage tank, any site rehabilitation costs INCLUDING ATTORNEY'S FEES AND  
7 LITIGATION COSTS incurred by the Department or the Fund under this section shall be  
8 recoverable from the responsible party to the Fund.

9 (d) Recoveries collected under subsection (c) of this section shall be paid into the  
10 Fund.

11 SECTION 2. AND BE IT FURTHER ENACTED, That an applicant who has  
12 submitted an application to the Department of the Environment under § 4-606 of the  
13 Environment Article on or before December 31, 1993 and who has not submitted a  
14 completed loan processing form to the Department by October 1, 1996, is not eligible for  
15 a loan under that application. The Department shall notify those applicants of this  
16 requirement by July 1, 1996.

17 SECTION 3. AND BE IT FURTHER ENACTED, That in Fiscal Year 1996, the  
18 Secretary of the Environment shall transfer \$3 million from the Underground Storage  
19 Tank Upgrade and Replacement Fund to the Oil Contaminated Site Environmental  
20 Cleanup Fund, and \$1 million to the Maryland Oil Disaster Containment, Clean-Up and  
21 Contingency Fund to be used only as provided for in § 4-607(d)(3) of the Environment  
22 Article.

23 SECTION 4. AND BE IT FURTHER ENACTED, That the Department of the  
24 Environment, in conjunction with the Department of Budget and Fiscal Planning, the  
25 Department of Fiscal Services, representatives of the various sectors of petroleum  
26 marketing, and other appropriate public and private entities, shall undertake a  
27 comprehensive review and assessment of revised funding mechanisms for cleanup of sites  
28 contaminated by oil from underground storage tanks and funding levels of oil related  
29 activities in Fiscal Year 1999. The Department of the Environment shall report its  
30 findings and funding recommendation to the Legislative Policy Committee, the House  
31 Environmental Matters Committee, and the Senate Economic and Environmental Affairs  
32 Committee no later than November 1, 1999.

33 SECTION 5. AND BE IT FURTHER ENACTED, That the Department of the  
34 Environment shall convene a technical work group from representatives of the various  
35 sectors of the petroleum marketing industry and undertake a review of the regulations  
36 adopted under Title 4 of the Environment Article. The regulatory work group shall review  
37 as appropriate the regulatory spending category limits and site prioritization scheme and  
38 make recommendations to the Department no later than September 1, 1996. The  
39 Department shall attempt to adopt regulatory changes proposed by the work group by  
40 October 1, 1996.

41 SECTION 6. AND BE IT FURTHER ENACTED, That Sections 2, 3, and 5 of this  
42 Act shall take effect June 1, 1996.



1           SECTION 7. AND BE IT FURTHER ENACTED, That Sections 1, 4, and 6 of this  
2 Act shall take effect July 1, 1996.