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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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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 1996

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CHAPTER \_\_\_\_

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

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1 Cleanup Fund.

2 BY repealing and reenacting, with amendments,

3 Article - Environment

4 Section 4-411, 4-602, 4-606, 4-607, 4-705, and 4-706

5 Annotated Code of Maryland

6 (1993 Replacement Volume and 1995 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Environment**

10 4-411.

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

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

14 (2) "Transfer" means the offloading or unloading of oil in the State from or  
15 to any commercial vessel, barge, tank truck, tank car, pipeline, or anyother means used  
16 for transporting oil.

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

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

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

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

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

34 (2) The license fee shall be paid quarterly to the Department and on receipt  
35 by the Comptroller, credited to the proper fund. The licensee shall certify to the  
36 Department, on forms as may be prescribed by the Department, the numberof barrels of  
37 oil transferred by the licensee during the fee quarter no later than the last day of the  
38 month following the fee quarter. These records shall be kept confidential by the  
39 Department.

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

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

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

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

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

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

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

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

41 (g) Money in the Fund not needed currently to meet the Department ofthe  
42 Environment's obligations in the exercise of its responsibility under this section shall be  
43 deposited with the State Treasurer to the credit of the Fund, and may be invested as

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1 provided by law. Interest received on the investment shall be credited to the Fund. The  
2 Secretary of the Environment shall determine the proper allocation of the moneys  
3 credited to the Fund only for the following purposes:

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

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

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

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

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

18 4-602.

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

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

24 (1) \$100 for each tank having a maximum capacity of under 1,100gallons;  
25 and

26 (2) \$200 for each tank having a maximum capacity of 1,100 gallons or more.

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

29 (1) THE OWNER OF THE TANK HAS NOT BEEN BILLED FOR THE FEE FOR  
30 2 CONSECUTIVE YEARS; AND

31 (2) BY OCTOBER 1, 1996, THE OWNER OF THE TANK UPGRADES,  
32 REPLACES, OR REMOVES THE TANK TO MEET THE TECHNICAL REQUIREMENTS OF  
33 THE UNDERGROUND STORAGE TANK REGULATION ADOPTED UNDER SUBTITLE 4  
34 OF THIS TITLE.

35 ~~[(e)] (D) The fees received under this section and under § 4-411(e)(1)(ii) of this~~  
36 ~~subtitle shall be paid into the Underground Storage Tank Upgrade and Replacement~~  
37 ~~Fund.~~

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1 4-606.

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

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

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

8 (b) A loan under this subtitle may not be provided to upgrade or replace any  
9 underground storage tank that was not registered with the Department as provided in §  
10 4-411.1 of this title on or before July 1, 1991, unless the Secretary determines that special  
11 circumstances exist.

12 4-607.

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

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

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

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

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

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

39 (I) MONEY IN THE MARYLAND OIL DISASTER CONTAINMENT,  
40 CLEAN-UP AND CONTINGENCY FUND, RESERVED FOR THE CIRCUMSTANCES SET  
41 FORTH IN SUBSECTION (D)(3) OF THIS SECTION, FALLS BELOW \$250,000 BECAUSE OF

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1 OIL SPILL INCIDENTS, PROVIDED THAT THE RESERVE BALANCE OF THE FUND MAY  
2 NOT EXCEED \$1 MILLION AFTER THE TRANSFER; OR

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

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

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

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

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

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

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

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

27 (II) 50% TO THE OIL CONTAMINATED SITE ENVIRONMENTAL  
28 CLEANUP FUND.

29 (2) ANY FUTURE LOAN REPAYMENTS MADE ON OR AFTER JANUARY 1,  
30 1999 SHALL BE CREDITED TO THE MARYLAND OIL DISASTER CONTAINMENT,  
31 CLEAN-UP AND CONTINGENCY FUND.

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

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

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

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1 4-705.

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

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

7 (1) For owners or operators of six tanks or fewer, a deductible of ~~[\$15,000]~~  
8 \$7,500;

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

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

13 (4) For owners or operators of more than 30 tanks, a deductible of  
14 ~~[\$40,000]~~ \$20,000; and

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

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

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

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

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

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

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

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

33 4-706.

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

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

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

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

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

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

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

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

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

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

39 SECTION 5. AND BE IT FURTHER ENACTED, That the Department of the  
40 Environment shall convene a technical work group from representatives of the various  
41 sectors of the petroleum marketing industry and undertake a review of the regulations  
42 adopted under Title 4 of the Environment Article. The regulatory work group shall review  
43 as appropriate the regulatory spending category limits and site prioritization scheme and



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1 make recommendations to the Department no later than September 1, 1996. The  
2 Department shall attempt to adopt regulatory changes proposed by the work group by  
3 October 1, 1996.

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

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