
By: Delegates Arnick, Minnick, Mohorovic, DeCarlo, Holt, and Weir

Requested: July 1, 1996

Introduced and read first time: January 8, 1997

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Hart-Miller Island Dredged Material Containment Facility - Modification Requires**
3 **Approval by the General Assembly**

4 FOR the purpose of prohibiting the Department of the Environment from approving a
5 modification of the height or number of containment areas for depositing dredge
6 spoil in the Hart-Miller Island Dredged Material Containment Facility unless it is
7 authorized to do so by the General Assembly; prohibiting the Board of Public
8 Works from approving a license or an amendment to a license for the modification
9 of the height or number of containment areas for depositing dredge spoil in the
10 Hart-Miller Island Dredged Material Containment Facility unless it is authorized to
11 do so by the General Assembly; providing for the application of this Act; and
12 generally relating to the modification of the height or number of containment areas
13 for depositing dredge spoil in the Hart-Miller Island Dredged Material
14 Containment Facility.

15 BY repealing and reenacting, with amendments,
16 Article - Environment
17 Section 5-1103 and 16-202
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1996 Supplement)

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

22 **Article - Environment**

23 5-1103.

24 (a) (1) [Except] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, EXCEPT
25 for dredge spoil from local dredging projects initiated by Baltimore County in the waters
26 of Baltimore County, the Department may not approve any contained area for the
27 redeposit of spoil within 5 miles of the Hart-Miller-Pleasure Island chain in Baltimore
28 County.

29 (2) A contained area described in paragraph (1) of this subsection may not
30 exceed the approximately 1,100 acre size provided in the projects U.S. Army Corps of
31 Engineers permit dated November 22, 1976.

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1 (3) THE DEPARTMENT MAY NOT APPROVE A MODIFICATION OF THE
2 HEIGHT OR NUMBER OF CONTAINED AREAS FOR DEPOSITING DREDGE SPOIL IN THE
3 HART-MILLER ISLAND DREDGED MATERIAL CONTAINMENT FACILITY UNLESS THE
4 GENERAL ASSEMBLY AUTHORIZES THE DEPARTMENT TO DO SO BY LEGISLATION.

5 (b) (1) Except as provided in paragraph (2) of this subsection, only spoil from
6 the excavation or dredging of Baltimore Harbor, its approach channels, and Baltimore
7 County tributary spoil from an approved dredging project in any of the Baltimore County
8 tributaries of the Chesapeake Bay may be redeposited in a contained area described in
9 subsection (a) of this section.

10 (2) Only dredge spoil from local dredging projects initiated by Baltimore
11 County in the waters of Baltimore County may be redeposited in any additional contained
12 area for the redeposit of spoil authorized under subsection (a)(1) of this section.

13 16-202.

14 (a) A person may not dredge or fill on State wetlands without a license.

15 (b) The Secretary shall assist the Board in determining whether to issue a license
16 to dredge or fill State wetlands. The Secretary shall submit a report indicating whether
17 the license should be granted and, if so, the terms, conditions, and consideration required
18 after consultation with any interested federal, State, and local unit, and after issuing
19 public notice, holding any requested hearing, and taking any evidence the Secretary
20 thinks advisable.

21 (c) (1) Upon receipt of a report by the Secretary, the Board shall decide if
22 issuance of the license is in the best interest of the State, taking into account the varying
23 ecological, economic, developmental, recreational, and aesthetic values each application
24 presents. If the Board decides to issue the license, the issuance of the license shall be for
25 consideration and on terms and conditions the Board determines. Every license shall be
26 in writing.

27 (2) With respect to an application for a license to fill or construct a shore
28 erosion control structure other than riprap on State wetlands, the Board may issue the
29 license without public notice if the fill area is less than 300 feet in length parallel to the
30 fast land as close to the fast land as structurally feasible but not more than 10 feet
31 channelward of the mean high water line and if after a site visit the report of the
32 Secretary recommends that the license be granted. The Board may issue a license without
33 public notice where an emergency exists caused by act of God, natural disaster,
34 catastrophe, or other similar natural event when the health, safety, or welfare of the
35 citizens of the State would be jeopardized by a delay caused by time requirements for
36 public notice. However, the license may be granted by the Board only with the
37 concurrence of the Secretary. The Secretary shall provide prompt public notice of the
38 emergency license issuance and the opportunity to submit written comments or to request
39 a hearing to determine whether the emergency license shall be revoked or made
40 permanent. If a hearing is requested, the hearing shall be scheduled within 30 days of the
41 emergency issuance of the license.

42 (3) If the report of the Secretary recommends that a license be granted, the
43 Board may issue the license without public notice:

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1 (i) To fill or construct a shore erosion control structure of riprap on
2 State wetlands if the fill area is less than 500 feet in length parallel to the fast land as
3 close to the fast land as structurally feasible but not more than 10 feet channelward of the
4 mean high water line;

5 (ii) To repair or replace a bulkhead for the purpose of shore erosion
6 control where the bulkhead is presently functional, but is deteriorating or damaged,
7 provided that the repair or replacement structure does not extend more than 18 inches
8 channelward of the existing structure. Repair or replacement may include riprap placed
9 along the base of the bulkhead, provided that the riprap shall not extend more than 10
10 feet channelward of the bulkhead;

11 (iii) To fill near shore shallow water bottom extending no more than 35
12 feet channelward of the mean high water line provided the fill area is less than 500 feet in
13 length parallel to the fast land for the purpose of shore erosion control by landscaping
14 and wetland plant establishment;

15 (iv) To construct or repair a private noncommercial boat ramp
16 provided the ramp does not exceed 12 feet in width and extend more than 30 feet
17 channelward of the mean high water line; or

18 (v) To maintenance dredge a mooring, private or commercial boat
19 ramp, mobile boat hoist slip, or marine railway when no more than 100 cubic yards of
20 material nor an area greater than 1,500 square feet need to be dredged.

21 (4) With respect to the maintenance dredging of projects in State wetlands
22 for which a license is to be issued, the license may include provision for periodic
23 maintenance dredging if recommended by the report of the Secretary provided that the
24 maintenance dredging be effected:

25 (i) Within the area, depth, and in conformity with other limitations
26 contained in the license;

27 (ii) That no more than 500 cubic yards of material be dredged at each
28 maintenance dredging to restore licensed works;

29 (iii) That the material from maintenance dredging be deposited upon
30 the designated or other upland site approved by the Secretary; and

31 (iv) That the Secretary be notified and approve of each maintenance
32 dredging operation.

33 (5) The provisions for periodic maintenance dredging under paragraph (4)
34 of this subsection shall be effective for no more than 6 years beyond the date of issuance
35 of the license.

36 (6) If the licensee desires to continue maintenance dredging beyond the
37 expiration date authorized in paragraph (5) of this subsection, the licensee must obtain a
38 new license by submitting an application to the Board for review in accordance with the
39 procedures of this section.

40 (d) The provisions of this section do not apply to any operation for:

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1 (1) Dredging and filling being conducted as of July 1, 1970, as authorized
2 under the terms of an appropriate permit or license granted under the provisions of
3 existing State and federal law;

4 (2) Dredging of seafood products by any licensed operator, harvesting of
5 seaweed, or mosquito control and abatement as approved by the Department of
6 Agriculture;

7 (3) Improvement of wildlife habitat or agricultural drainage ditches as
8 approved by an appropriate unit; or

9 (4) Routine maintenance or repair of existing bulkheads, provided that
10 there is no addition or channelward encroachment.

11 (E) THE BOARD MAY NOT ISSUE A LICENSE FOR THE MODIFICATION OF THE
12 HEIGHT OR NUMBER OF CONTAINED AREAS FOR DEPOSITING DREDGE SPOIL IN THE
13 HART-MILLER ISLAND DREDGED MATERIAL CONTAINMENT FACILITY UNLESS THE
14 GENERAL ASSEMBLY AUTHORIZES THE BOARD TO DO SO BY LEGISLATION.

15 [(e)] (F) Any person who violates any provision of this section is guilty of a
16 misdemeanor. Upon conviction, the person is subject to a fine not exceeding \$1,000 with
17 costs imposed in the discretion of the court.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed
19 only prospectively and may not be applied or interpreted to have any effect on or
20 application to any license to modify the number or height of contained areas for
21 depositing dredge spoil in the Hart-Miller Island Dredged Material Containment Facility
22 issued before the effective date of this Act.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 1997.