

SENATE BILL 157

Unofficial Copy  
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SB 290/97 - EEA

1998 Regular Session  
8lr0669

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By: **Senators Frosh and Roesser**  
Introduced and read first time: January 23, 1998  
Assigned to: Economic and Environmental Affairs

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: February 20, 1998

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Environment - Water Appropriation or Use Permits**

3 FOR the purpose of altering a certain policy of the State concerning the appropriation  
4 or use of certain waters; altering certain requirements for the issuance of certain  
5 appropriation or use permits; providing a certain exception; requiring the  
6 Department of the Environment to place certain requirements and conditions on  
7 the issuance of certain water appropriation permits; defining certain terms; and  
8 generally relating to water appropriation or use permits.

9 BY repealing and reenacting, with amendments,  
10 Article - Environment  
11 Section 5-501(a) and 5-507  
12 Annotated Code of Maryland  
13 (1996 Replacement Volume and 1997 Supplement)

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

16 **Article - Environment**

17 5-501.

18 (a) In order to conserve, protect, and use water resources of the State in  
19 accordance with the best interests of the people of Maryland, it is the policy of the  
20 State to control, so far as feasible, appropriation or use of surface waters and  
21 groundwaters of the State AND TO PROTECT ADJOINING USERS AND PROTECT THE  
22 NATURAL RESOURCES OF THE STATE. Also, it is State policy to promote public safety  
23 and [welfare] WELFARE, and control and supervise, so far as is feasible, construction,

1 reconstruction, and repair of dams, reservoirs, and other waterworks in any waters of  
2 the State.

3 5-507.

4 (a) (1) IN THIS SUBSECTION, "SUSTAINED YIELD" MEANS THE AVAILABILITY  
5 OF WATER FROM AN AQUIFER MANAGED SO THAT TOTAL WITHDRAWALS DO NOT  
6 EXCEED LONG-TERM RECHARGE, THUS ENABLING THE AQUIFER TO FUNCTION AS  
7 AN AQUIFER IN PERPETUITY.

8 (2) Before acting on any permit application, the Department shall weigh  
9 all respective public advantages and disadvantages and make all appropriate  
10 investigations.

11 (3) (I) If the Department believes from the evidence before the  
12 Department and based upon State water resources policy declared in this subtitle  
13 that the applicant's plans provide greatest feasible utilization of the waters of the  
14 State, adequately preserve public safety, ADEQUATELY PRESERVE THE ADJACENT  
15 NATURAL RESOURCES, PROTECT ADJACENT PROPERTY OWNERS FROM  
16 ENVIRONMENTAL DEGRADATION OF THE EXISTING GROUNDWATER OR SURFACE  
17 WATER, and promote the general public welfare, the Department shall grant the  
18 permit to appropriate or use the waters, construct, reconstruct, or repair the proposed  
19 reservoir, dam, or waterway obstruction, or accomplish any combination of these  
20 objectives.

21 (II) If the Department believes from the evidence before the  
22 Department that the proposed appropriation or use of State waters or proposed  
23 construction is inadequate, wasteful, dangerous, impracticable or detrimental to the  
24 best public interest, the Department may reject the application or suggest  
25 modifications to the proposed plans to protect the public welfare and safety.

26 (III) EXCEPT FOR AN APPLICATION FOR DEWATERING TO ALLOW A  
27 MINING OPERATION ~~THAT IS SUBJECT TO THE PROVISIONS OF TITLE 15, SUBTITLE 6~~  
28 ~~OF THIS ARTICLE, THE DEPARTMENT SHALL REJECT THE APPLICATION~~ MAY NOT  
29 ISSUE A PERMIT FOR GROUNDWATER USE IF THE APPROPRIATION, EITHER BY  
30 ITSELF OR IN COMBINATION WITH EXISTING APPROPRIATIONS, WILL EXCEED THE  
31 SUSTAINED YIELD OF THE AQUIFER.

32 (b) (1) In granting any permit to appropriate or use water or construct any  
33 reservoir, dam or waterway obstruction, the Department may include any condition,  
34 term, or reservation concerning the character, amount, means, and manner of the  
35 appropriation or use or method of construction necessary to preserve proper control in  
36 the State and insure the safety and welfare of the people of the State. The  
37 Department may determine and specify what provisions to make, if any, in each  
38 permit granted to construct a dam or other waterwork for passage of fish.

39 (2) Any measuring and reporting of water use required of a permittee by  
40 the Department shall be effective and reasonable under the circumstances.

1           (3)     Any regulations concerning measuring and reporting of agricultural  
2 water use or determination of aquifer or stream flow characteristics prior to issuance  
3 of a water appropriation permit for an agricultural water use shall be adopted by the  
4 Department with the advice and consent of the Secretary of Agriculture.

5           (4)     (I)        IN THIS PARAGRAPH, "POTENTIOMETRIC SURFACE" MEANS A  
6 LEVEL TO WHICH WATER WILL RISE IN A TIGHTLY CASED WELL DRILLED INTO A  
7 CONFINED AQUIFER.

8           (II)     EXCEPT FOR AN APPLICANT FOR A WATER APPROPRIATION  
9 PERMIT FOR AN AGRICULTURAL WATER USE, IF AN APPLICANT INTENDS TO  
10 APPROPRIATE GROUNDWATER IN UNPRECEDENTED QUANTITIES FOR PURPOSES  
11 NOT COMMON TO A LOCALITY AND THE APPROPRIATION WOULD CAUSE HARM TO  
12 OTHER USERS BY LOWERING THE WATER TABLE OR POTENTIOMETRIC SURFACE  
13 BELOW THE OTHER USERS' WELLS, THE DEPARTMENT SHALL:

14                           1.       REQUIRE THE APPLICANT TO PERFORM AN ALTERNATIVE  
15 WATER SOURCE ANALYSIS; AND

16                           2.       WITHIN AN IMPACT AREA DESIGNATED BY THE  
17 DEPARTMENT, CONDITION THE ISSUANCE OF THE PERMIT ON PAYMENT BY THE  
18 PERMITTEE OF THE COST OF IMPROVING ADVERSELY AFFECTED NEIGHBORING  
19 FACILITIES OR OTHER MITIGATION OF THE IMPACT ON NEARBY USERS.

20     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 1998.