

HOUSE BILL 615

Unofficial Copy
M3

1999 Regular Session
9r1580
CF 9r1771

By: **Delegates Cryor, Barkley, Boutin, Brinkley, Cadden, Conroy, Dembrow, Dypski, Frush, Goldwater, Hecht, Heller, Hubbard, Klausmeier, La Vay, Leopold, Marriott, Montague, Petzold, Pitkin, Riley, Rosso, Shriver, Stocksdale, Bronrott, and Kagan**

Introduced and read first time: February 11, 1999

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Potomac River Protection Act**

3 FOR the purpose of requiring the Secretary of the Environment to conduct a certain
4 study of the Potomac River to examine certain issues; requiring the Secretary to
5 make certain determinations, assessments, and recommendations; authorizing
6 the Secretary to coordinate a certain study with other federal and state units;
7 establishing certain deadlines for a certain study; establishing certain reporting
8 requirements; prohibiting a person from constructing or blasting in the Potomac
9 River under certain circumstances; clarifying the construction of certain
10 provisions; making provisions of this Act severable; providing for the legislative
11 intent of this Act; defining certain terms; providing for the termination of this
12 Act; and generally relating to the protection of the Potomac River.

13 BY adding to
14 Article - Environment
15 Section 5-12A-01 through 5-12A-05, inclusive, to be under the new subtitle
16 "Subtitle 12A. Potomac River Study"
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 1998 Supplement)

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

21 **Article - Environment**

22 **SUBTITLE 12A. POTOMAC RIVER STUDY.**

23 5-12A-01.

24 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
25 INDICATED.

1 (B) "MGD" MEANS MILLION OF GALLONS OF WATER PER DAY.

2 (C) "MINIMUM FLOWBY" MEANS THE MINIMUM DAILY FLOW REMAINING IN
3 THE POTOMAC RIVER AFTER ALL WATER WITHDRAWALS.

4 5-12A-02.

5 THE PURPOSE OF THIS SUBTITLE IS TO:

6 (1) ASSIST THE PEOPLE OF MARYLAND IN OBTAINING THE PROTECTION
7 AND ENHANCEMENT OF THE POTOMAC RIVER IN ACCORDANCE WITH THE
8 OBJECTIVES OF ITS AMERICAN HERITAGE RIVER DESIGNATION;

9 (2) FOSTER AN ADDITIONAL UNDERSTANDING OF THREATS TO WATER
10 QUALITY AND WATER QUANTITY IN THE POTOMAC RIVER FOR THE BETTER
11 MANAGEMENT OF RESOURCES; AND

12 (3) PRESERVE THE POTOMAC RIVER FOR FUTURE GENERATIONS.

13 5-12A-03.

14 (A) THE SECRETARY SHALL CONDUCT A STUDY OF THE POTOMAC RIVER TO:

15 (1) PROVIDE A COMPREHENSIVE ASSESSMENT OF FUTURE WATER
16 SUPPLIES AND DEMANDS FOR THE POTOMAC BASIN, INCLUDING:

17 (I) A COMPARISON OF THE SUPPLY AND DEMAND FROM NOW
18 THROUGH THE YEAR 2035;

19 (II) THE SOURCES OF DEMAND, INCLUDING MAJOR AND MINOR
20 WATER SUPPLIERS AND THEIR CUSTOMERS;

21 (III) A DETERMINATION OF VARIATIONS IN DEMAND, INCLUDING
22 THE NEED TO MEET PEAK DEMAND DURING CONDITIONS COMPARABLE TO THE
23 MOST SEVERE DROUGHT AND THE LONGEST DROUGHT OF RECORD;

24 (IV) THE IMPACT OF DEMAND FROM OUTLYING AREAS ON WATER
25 SUPPLY SOURCES PRIMARILY FOR THE METROPOLITAN WASHINGTON AREA;

26 (V) THE AVAILABILITY OF RESERVOIRS TO AUGMENT RIVER FLOW
27 ONLY TO THE EXTENT THAT RESERVOIR WATER WILL NOT ADVERSELY IMPACT THE
28 TEMPERATURE, PH, SALINITY, NUTRIENT, OR CHEMICAL CONTENT OF THE POTOMAC
29 RIVER;

30 (VI) AN ACCOUNTING FOR COMPLIANCE WITH CURRENT AND
31 ANTICIPATED NATIONAL PRIMARY AND SECONDARY DRINKING WATER STANDARDS,
32 INCLUDING STANDARDS FOR ORGANIC CHEMICALS, RADIOACTIVITY,
33 MICROBIOLOGICAL CONTAMINATION, TASTE, AND ODOR; AND

34 (VII) AN ACCOUNTING FOR WATER QUALITY TRENDS, INCLUDING
35 POTENTIAL WATER QUALITY DETERIORATION DUE TO POPULATION GROWTH,

1 INCREASED INDUSTRIAL, COMMERCIAL, AND RESIDENTIAL DEVELOPMENT,
2 CHANGES IN AGRICULTURAL PRACTICES, INCLUDING GROWTH IN THE NUMBER AND
3 SIZE OF INTENSIVE ANIMAL PRODUCTION FACILITIES, AND CONTAMINATED
4 SEDIMENT;

5 (2) ANALYZE THE EXTENT OF EXISTING OR POTENTIAL THREATS TO
6 HEALTH AND THE WATER QUALITY OF THE POTOMAC RIVER BY CRYPTOSPORIDIUM,
7 GIARDIA, AND OTHER MICROORGANISMS;

8 (3) IDENTIFY THE POLLUTANTS OF CONCERN IN THE POTOMAC RIVER;
9 AND

10 (4) ASSESS EXISTING OR POTENTIAL THREATS TO THE ESTHETIC,
11 RECREATIONAL, AND ECOLOGICAL VALUES OF THE RIVER BY CONSTRUCTION THAT
12 OCCURS ON THE RIVERBED.

13 (B) IN THE STUDY, THE SECRETARY SHALL:

14 (1) DETERMINE A MINIMUM FLOWBY REQUIREMENT WHICH IS
15 ADEQUATE TO ENSURE:

16 (I) THE CHEMICAL, PHYSICAL, AND BIOLOGICAL INTEGRITY OF
17 THE RIVER;

18 (II) THE RESTORATION AND PROTECTION OF THE TIDAL ESTUARY,
19 INCLUDING APPROPRIATE DISSOLVED OXYGEN AND SALINITY LEVELS;

20 (III) COMPLIANCE WITH EXISTING AND ANTICIPATED WATER
21 QUALITY STANDARDS;

22 (IV) COMPLIANCE WITH EXISTING AND ANTICIPATED NATIONAL
23 PRIMARY AND SECONDARY DRINKING WATER STANDARDS, INCLUDING STANDARDS
24 FOR ORGANIC CHEMICALS, RADIOACTIVITY, MICROBIOLOGICAL CONTAMINATION,
25 TASTE, AND ODOR;

26 (V) HABITAT REQUIREMENTS, INCLUDING QUANTITY AND
27 QUALITY HABITAT, TO ENSURE PROTECTION AND PROPAGATION OF A BALANCED,
28 INDIGENOUS POPULATION OF FISH, SHELLFISH, AND WILDLIFE; AND

29 (VI) PROTECTION OF THE RIVER'S AQUATIC, TERRESTRIAL,
30 RECREATIONAL, AND ESTHETIC RESOURCES;

31 (2) INCORPORATE THE FOLLOWING ASSESSMENTS:

32 (I) THAT CONSERVATION WILL REDUCE DEMAND ONLY TO THE
33 EXTENT THAT CONSERVATION MEASURES ARE ADDRESSED BY AN ADEQUATE
34 ENFORCEMENT PROGRAM; AND

35 (II) THAT ALTERNATE WATER SUPPLIES ARE AVAILABLE ONLY TO
36 THE EXTENT THAT SUCH SUPPLIES CAN BE READILY AVAILABLE WITHIN THE STUDY

1 TIMETABLE, ARE ECONOMICALLY AND TECHNICALLY FEASIBLE, AND WILL NOT
2 HAVE SIGNIFICANT ADVERSE HEALTH OR ENVIRONMENTAL IMPACTS;

3 (3) RECOMMEND MEANS FOR MINIMIZING OR ELIMINATING THE
4 POTENTIAL THREAT TO HEALTH AND THE WATER QUALITY POSED BY
5 CRYPTOSPORIDIUM, GIARDIA, AND OTHER MICROORGANISMS;

6 (4) RECOMMEND RESTRICTIONS OR PROHIBITIONS ON CONSTRUCTION
7 IN THE POTOMAC RIVER TO PROTECT THE ESTHETIC, RECREATIONAL, AND
8 ECOLOGICAL VALUES OF THE RIVER; AND

9 (5) IDENTIFY AREAS OF SCIENTIFIC UNCERTAINTY AND AREAS THAT
10 REQUIRE FURTHER RESEARCH.

11 (C) THE SECRETARY MAY COORDINATE THE STUDY OF THE POTOMAC RIVER
12 WITH OTHER FEDERAL AND STATE UNITS, INCLUDING THE INTERSTATE
13 COMMISSION ON THE POTOMAC RIVER BASIN.

14 (D) (1) THE SECRETARY SHALL BEGIN THE STUDY ON OR BEFORE JULY 1,
15 1999.

16 (2) ON OR BEFORE DECEMBER 1, 2000, THE SECRETARY SHALL PUBLISH
17 A NOTICE OF THE AVAILABILITY OF A DRAFT OF THE POTOMAC RIVER STUDY IN THE
18 MARYLAND REGISTER AND SHALL ALLOW AT LEAST A 60-DAY COMMENT PERIOD.
19 THE SECRETARY SHALL RESPOND TO THE PUBLIC COMMENTS AND SHALL INCLUDE
20 A SUMMARY OF THE COMMENTS AND THE SECRETARY'S RESPONSE AS PART OF THE
21 POTOMAC RIVER STUDY.

22 (3) ON OR BEFORE JUNE 1, 2001, THE SECRETARY SHALL PUBLISH A
23 NOTICE OF PUBLIC AVAILABILITY OF THE FINAL POTOMAC RIVER STUDY IN THE
24 MARYLAND REGISTER.

25 (4) THE SECRETARY SHALL SUBMIT TO THE GENERAL ASSEMBLY THE
26 FINAL REPORT OF THE STUDY BY JUNE 1, 2001.

27 5-12A-04.

28 (A) (1) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE APPLICATION
29 OF LAW OR REGULATION THAT IMPOSES MORE STRINGENT OR ADDITIONAL
30 STANDARDS OR REQUIREMENTS.

31 (2) THIS SECTION DOES NOT PRECLUDE OR DENY ANY RIGHT OF THE
32 STATE, ITS UNITS, OR POLITICAL SUBDIVISIONS FROM ADOPTING OR ENFORCING
33 MORE STRINGENT OR ADDITIONAL STANDARDS OR REQUIREMENTS.

34 (B) A PERSON MAY NOT:

35 (1) CONSTRUCT A WATER INTAKE STRUCTURE IN THE POTOMAC RIVER
36 WITH THE CAPACITY TO WITHDRAW MORE THAN 50 MGD;

1 (2) BLAST THE POTOMAC RIVERBED FOR A WATER INTAKE STRUCTURE;
2 OR

3 (3) CONSTRUCT AN INTAKE STRUCTURE UNLESS THE WATER INTAKE
4 STRUCTURE IS AT LEAST 3 FEET BELOW THE WATER SURFACE AT THE RIVER'S
5 HISTORIC LOW FLOW.

6 5-12A-05.

7 THE PROVISIONS OF THIS SUBTITLE SHALL REMAIN EFFECTIVE UNTIL JUNE 1,
8 2002 AND WITH NO FURTHER ACTION REQUIRED BY THE GENERAL ASSEMBLY THIS
9 SUBTITLE SHALL BE ABROGATED AND OF NO FURTHER FORCE AND EFFECT.

10 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
11 Act or the application thereof to any person or circumstance is held invalid for any
12 reason in a court of competent jurisdiction, the invalidity does not affect other
13 provisions or any other application of this Act which can be given effect without the
14 invalid provision or application, and for this purpose the provisions of this Act are
15 declared severable.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 June 1, 1999.