
By: **Senator Conway**
Introduced and read first time: February 5, 1999
Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Environment - Incinerator Ash - Licensing**

3 FOR the purpose of prohibiting the use of certain forms of ash without a license from
4 the Department of the Environment, with certain exceptions; requiring the
5 Department to adopt certain regulations; prohibiting the Department from
6 taking certain actions on certain license applications before certain final
7 regulations are in effect; declaring the findings of the General Assembly;
8 requiring the Department to study and report to the General Assembly by a
9 certain date; defining certain terms; providing for the construction of this Act;
10 and generally relating to the use of incinerator ash.

11 BY adding to
12 Article - Environment
13 Section 9-2001 through 9-2007 to be under the new subtitle "Subtitle 20.
14 Incinerator Ash Licensing"
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 1998 Supplement)

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

19 **Article - Environment**

20 **SUBTITLE 20. INCINERATOR ASH LICENSING.**

21 9-2001.

22 (A) IN THIS SUBTITLE THE FOLLOWING TERMS HAVE THE MEANINGS
23 INDICATED.

24 (B) (1) "ASH" MEANS PROCESSED OR UNPROCESSED BOTTOM, FLY, OR
25 COMBINED ASH PRODUCED BY A MUNICIPAL WASTE INCINERATOR,
26 WASTE-TO-ENERGY PLANT, OR OTHER SOLID WASTE INCINERATOR.

1 (2) "ASH" INCLUDES A PRODUCT OR MATERIAL THAT CONTAINS OR THAT
2 IS WHOLLY OR PARTLY DERIVED FROM ASH.

3 (C) "SECURE LANDFILL" MEANS A LANDFILL THAT USES A LINER AND
4 LEACHATE COLLECTION SYSTEM TO MINIMIZE THE DISCHARGE OF WASTE OR
5 LEACHATE INTO THE ENVIRONMENT.

6 (D) (1) "USE ASH" INCLUDES:

7 (I) UTILIZING ASH:

8 1. IN A MANUFACTURING PROCESS;

9 2. AS AN AGGREGATE FOR A CONCRETE OR ASPHALT
10 PRODUCT;

11 3. FOR ROAD MATERIAL OR FILL;

12 4. IN CONSTRUCTION, AS CINDER BLOCK AND OTHER
13 MATERIAL; AND

14 5. AS A LANDFILL CLOSURE MATERIAL; AND

15 (II) USING A PRODUCT MANUFACTURED FROM ASH.

16 (2) "USE ASH" DOES NOT INCLUDE TRANSPORTING ASH TO, STORING
17 ASH AT, OR DISPOSING OF ASH IN A LANDFILL THAT IS PERMITTED TO ACCEPT ASH.
18 9-2002.

19 THE GENERAL ASSEMBLY FINDS AND DETERMINES THAT:

20 (1) SOLID WASTE INCINERATOR ASH CONTAINS HIGHLY TOXIC
21 MATERIALS, INCLUDING LEAD AND DIOXINS, THAT CAN CAUSE SERIOUS DAMAGE TO
22 THE ENVIRONMENT AND HUMAN HEALTH AND SAFETY; AND

23 (2) THIS SUBTITLE IS ESSENTIAL TO ENSURING THAT BEFORE ASH IS
24 INTRODUCED TO THE ENVIRONMENT OTHER THAN A PROPERLY SECURE LANDFILL,
25 THE USE OF ASH WILL ADEQUATELY BE REVIEWED, AND PROVISION WILL BE MADE
26 FOR MONITORING ITS EFFECTS TO CONTROL RISKS TO THE ENVIRONMENT, HEALTH,
27 AND SAFETY.

28 9-2003.

29 (A) EXCEPT AS PROVIDED IN § 19-2004 OF THIS SUBTITLE, A PERSON MAY NOT
30 USE ASH AT A SITE IN THE STATE WITHOUT FIRST OBTAINING A LICENSE FROM THE
31 DEPARTMENT UNDER THIS SUBTITLE FOR THE USE OF ASH AT THE SITE.

32 (B) THE DEPARTMENT MAY ISSUE A LICENSE TO USE ASH AT A SITE ONLY
33 AFTER:

1 (1) THE APPLICANT:

2 (I) DEMONSTRATES TO THE DEPARTMENT THAT THE USE OF ASH
3 AT THE SITE POSES NO GREATER RISK TO THE ENVIRONMENT OR TO HUMAN
4 HEALTH OR SAFETY THAN DISPOSING OF THE ASH IN A SECURE LANDFILL; AND

5 (II) HAS CONDUCTED A RISK ASSESSMENT CONCERNING ASH USE
6 AT THE SITE, USING THE MOST CURRENT AVAILABLE DATA AND METHODS; AND

7 (2) THE DEPARTMENT AND THE DEPARTMENT OF HEALTH AND MENTAL
8 HYGIENE HAVE REVIEWED AND APPROVED THE RISK ASSESSMENT AFTER A PUBLIC
9 HEARING ON THE RECORD.

10 (C) THE DEPARTMENT SHALL ADVERTISE THE PUBLIC HEARING UNDER
11 SUBSECTION (B)(2) OF THIS SECTION AT LEAST 2 WEEKS BEFOREHAND IN A
12 NEWSPAPER OF GENERAL CIRCULATION IN THE AREA WHERE THE APPLICANT'S ASH
13 USE SITE IS TO BE LOCATED.

14 9-2004.

15 (A) THE USE OF ASH UNDER THIS SECTION IS LIMITED TO:

16 (1) LINED AREAS OF A SECURE LANDFILL; OR

17 (2) USES THAT RECEIVE INDIVIDUAL APPROVAL BY THE DEPARTMENT,
18 REVIEWED TO ENSURE THAT THE PROPOSED USE PROVIDES ADEQUATE
19 PROTECTION OF HUMAN HEALTH, SAFETY, AND THE ENVIRONMENT.

20 (B) SUBJECT TO APPLICABLE LAWS AND REGULATIONS, A PERSON MAY USE
21 ASH WITHOUT A LICENSE UNDER THIS SUBTITLE TO:

22 (1) PROCESS ASH TO REMOVE UNCOMBUSTED MATERIAL, SIZE THE ASH,
23 AND REDUCE THE SOLUBILITY OF METALS REMAINING IN THE ASH; AND

24 (2) USE ASH PROCESSED UNDER ITEM (1) OF THIS SUBSECTION:

25 (I) AS DAILY LANDFILL COVER;

26 (II) AS CONSTRUCTION MATERIAL IN A SECURE LANDFILL; AND

27 (III) IN PILOT PROJECTS IN A SECURE LANDFILL.

28 9-2005.

29 (A) THE DEPARTMENT SHALL ADOPT REGULATIONS ON USING ASH UNDER
30 THIS SUBTITLE.

31 (B) IN DEVELOPING THE REGULATIONS, THE DEPARTMENT SHALL:

32 (1) CONSULT WITH THE DEPARTMENT OF HEALTH AND MENTAL
33 HYGIENE;

1 (2) CONSULT WITH THE DEPARTMENT OF TRANSPORTATION AND WITH
2 LOCAL TRANSPORTATION UNITS ON USING ASH IN OR ON ROADS; AND

3 (3) CONSIDER:

4 (I) THE FEASIBILITY AND THE HEALTH AND ENVIRONMENTAL
5 RISKS OF USING BOTTOM ASH COMPARED WITH USING COMBINED FLY AND BOTTOM
6 ASH;

7 (II) THE RISKS TO HUMAN HEALTH AND THE ENVIRONMENT POSED
8 BY TOXIC CONSTITUENTS OF ASH, INCLUDING DIOXINS AND HEAVY METALS;

9 (III) SITE-SPECIFIC RESTRICTIONS AND PROHIBITIONS ON USING
10 ASH, PARTICULARLY INVOLVING USES THAT MIGHT EXPOSE SENSITIVE
11 POPULATIONS OR SENSITIVE NATURAL RESOURCES TO HEALTH OR
12 ENVIRONMENTAL RISKS;

13 (IV) METHODS OF TRACKING THE PHYSICAL LOCATION AND
14 MANNER OF USE OF ASH IN ALL INITIAL AND SUBSEQUENT USES, AND WHETHER
15 USES SHOULD BE RESTRICTED TO THOSE THAT CAN BE TRACKED; AND

16 (V) METHODS OF STATE AND LOCAL NOTIFICATION OF ACTIVITIES
17 INVOLVING THE INITIAL OR SUBSEQUENT USE OF ASH, WHICH MAY INCLUDE
18 INDIVIDUAL NOTICE OR PERMITS FOR SPECIFIC PROJECTS AS NEEDED.

19 (C) THE DEPARTMENT MAY NOT PROCESS OR TAKE ACTION ON A LICENSE
20 APPLICATION UNDER THIS SUBTITLE UNTIL THE DEPARTMENT HAS ADOPTED FINAL
21 REGULATIONS UNDER THIS SECTION, AND THE REGULATIONS ARE IN EFFECT.

22 9-2006.

23 ON OR BEFORE JANUARY 1, 2001, THE DEPARTMENT SHALL STUDY AND REPORT
24 TO THE GENERAL ASSEMBLY, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT
25 ARTICLE, ON:

26 (1) WHETHER AND TO WHAT EXTENT VARIOUS ASH PROCESSING
27 METHODS AND ASH PRODUCTS CAN REDUCE THE SOLUBILITY OF AND THE RELEASE
28 OF METALS, DIOXINS, AND OTHER TOXIC CONSTITUENTS OVER THE LIFE OF THE
29 CONSTITUENTS, CONSIDERING, AS APPROPRIATE:

30 (I) WEAR AND DESTRUCTION FROM VEHICULAR TRAFFIC,
31 WEATHER, GEOLOGICAL AND OTHER NATURAL EVENTS;

32 (II) REPAIR OR DEGRADATION OF ROADWAYS THAT CONTAIN ASH;

33 (III) DEMOLITION OF STRUCTURES THAT CONTAIN ASH;

34 (IV) REUSE OF MATERIALS THAT CONTAIN ASH; AND

1 (V) ALL POSSIBLE EXPOSURES OF THESE ASH-CONTAINING
2 MATERIALS AND STRUCTURES TO WORKERS, THE PUBLIC, AND THE ENVIRONMENT;
3 AND

4 (2) RECOMMENDATIONS ON:

5 (I) PERMISSIBLE AND IMPERMISSIBLE USES OF ASH;

6 (II) LIMITATIONS ON THE USE OF ASH IN GENERAL; AND

7 (III) REQUIREMENTS FOR PROCESSING ASH USED AT SECURE
8 LANDFILLS UNDER § 9-2004 OF THIS SUBTITLE IN ORDER TO REDUCE THE RELEASE
9 OF TOXIC CONSTITUENTS AND TO CONSERVE LANDFILL CAPACITY.

10 9-2007.

11 THIS SUBTITLE MAY NOT BE CONSTRUED TO PREEMPT OR PREVAIL OVER ANY
12 ORDINANCE, RESOLUTION, LAW, OR REGULATION MORE STRINGENT THAN THIS
13 SUBTITLE.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 1999.