
By: **Senator Conway**
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Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: March 19, 1999

CHAPTER _____

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~~ requiring a person to register ash use with the Department of the
10 Environment before using certain forms of ash; establishing certain
11 requirements for the registration of ash use; authorizing the Department to
12 undertake certain activities before registering ash use; authorizing the
13 Department to revoke certain registration of ash use under certain
14 circumstances; establishing the applicability of certain existing enforcement
15 procedures and civil and criminal penalties for violations of this Act; declaring
16 certain determinations of the General Assembly; defining certain terms;
17 providing for the construction of this Act; and generally relating to the use of
18 incinerator ash.

19 BY adding to
20 Article - Environment
21 ~~Section 9-2001 through 9-2007 to be under the new subtitle "Subtitle 20.~~
22 ~~Incinerator Ash Licensing"~~
23 Section 9-1730 through 9-1733 to be under the new part "Part IV. Incinerator
24 Ash"
25 Annotated Code of Maryland
26 (1996 Replacement Volume and 1998 Supplement)

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

3 **Article - Environment**

4 ~~SUBTITLE 20. INCINERATOR ASH LICENSING.~~

5 PART IV. INCINERATOR ASH.

6 ~~9-2001-9-1730.~~

7 (A) IN THIS ~~SUBTITLE~~ PART IV THE FOLLOWING TERMS HAVE THE MEANINGS
8 INDICATED.

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

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

14 ~~(C) "SECURE LANDFILL" MEANS A LANDFILL THAT USES A LINER AND
15 LEACHATE COLLECTION SYSTEM TO MINIMIZE THE DISCHARGE OF WASTE OR
16 LEACHATE INTO THE ENVIRONMENT.~~

17 ~~(D)~~ (C) (1) ~~"USE ASH ASH USE" INCLUDES:~~

18 ~~(H)~~ (H) ~~UTILIZING ASH PROCESSING ASH OR MANUFACTURING ASH~~
19 PRODUCTS FOR:

20 1. ~~IN A MANUFACTURING PROCESS;~~

21 2. (I) USE AS AN AGGREGATE FOR A CONCRETE OR
22 ASPHALT PRODUCT;

23 3. ~~FOR~~

24 (II) USE AS ROAD MATERIAL OR FILL;

25 4. ~~IN CONSTRUCTION;~~

26 (III) USE IN CONSTRUCTION;

27 (IV) USE AS CINDER BLOCK; AND OTHER MATERIAL; AND

28 5. (V) USE AS A LANDFILL CLOSURE MATERIAL; AND

29 (VI) ANY OTHER USE AS APPROVED BY THE DEPARTMENT.

30 ~~(H)~~ ~~USING A PRODUCT MANUFACTURED FROM ASH.~~

1 (2) ~~"USE ASH ASH USE"~~ DOES NOT INCLUDE TRANSPORTING ASH TO,
2 STORING ASH AT, OR DISPOSING OF ASH IN A LANDFILL THAT IS PERMITTED TO
3 ACCEPT ASH.

4 (D) ~~"LANDFILL" MEANS A SOLID WASTE LANDFILL THAT USES A LINER AND~~
5 ~~LEACHATE COLLECTION SYSTEM TO MINIMIZE THE DISCHARGE OF WASTE OR~~
6 ~~LEACHATE INTO THE ENVIRONMENT.~~

7 ~~9-2002-9-1731.~~

8 THE GENERAL ASSEMBLY ~~FINDS AND~~ DETERMINES THAT:

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

12 (2) ~~THIS SUBTITLE PART IV IS ESSENTIAL TO ENSURING ENSURE THAT~~
13 ~~BEFORE ASH IS INTRODUCED TO THE ENVIRONMENT OTHER THAN A PROPERLY~~
14 ~~SECURE LANDFILL, THE USE OF ASH WILL BE ADEQUATELY BE REVIEWED, AND~~
15 ~~PROVISION WILL BE MADE FOR MONITORING ITS EFFECTS TO CONTROL MINIMIZE~~
16 ~~RISKS TO THE ENVIRONMENT, HEALTH, AND SAFETY.~~

17 ~~9-2003.~~

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

21 (B) ~~THE DEPARTMENT MAY ISSUE A LICENSE TO USE ASH AT A SITE ONLY~~
22 ~~AFTER:~~

23 (1) ~~THE APPLICANT:~~

24 (1) ~~DEMONSTRATES TO THE DEPARTMENT THAT THE USE OF ASH~~
25 ~~AT THE SITE POSES NO GREATER RISK TO THE ENVIRONMENT OR TO HUMAN~~
26 ~~HEALTH OR SAFETY THAN DISPOSING OF THE ASH IN A SECURE LANDFILL; AND~~

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

29 (2) ~~THE DEPARTMENT AND THE DEPARTMENT OF HEALTH AND MENTAL~~
30 ~~HYGIENE HAVE REVIEWED AND APPROVED THE RISK ASSESSMENT AFTER A PUBLIC~~
31 ~~HEARING ON THE RECORD.~~

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

1 ~~9-2004.~~

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

3 (1) ~~LINED AREAS OF A SECURE LANDFILL; OR~~

4 (2) ~~USES THAT RECEIVE INDIVIDUAL APPROVAL BY THE DEPARTMENT,~~
5 ~~REVIEWED TO ENSURE THAT THE PROPOSED USE PROVIDES ADEQUATE~~
6 ~~PROTECTION OF HUMAN HEALTH, SAFETY, AND THE ENVIRONMENT.~~

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

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

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

12 (I) ~~AS DAILY LANDFILL COVER;~~

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

14 (III) ~~IN PILOT PROJECTS IN A SECURE LANDFILL.~~

15 ~~9-2005.~~

16 (A) ~~THE DEPARTMENT SHALL ADOPT REGULATIONS ON USING ASH UNDER~~
17 ~~THIS SUBTITLE.~~

18 9-1732.

19 (A) A PERSON SHALL REGISTER ASH USE IN THE STATE WITH THE
20 DEPARTMENT FOR EACH USE PRIOR TO COMMENCING THAT USE.

21 (B) EACH APPLICANT SHALL FILE WITH THE DEPARTMENT:

22 (1) THE NAME AND ADDRESS OF THE APPLICANT;

23 (2) THE NAME AND ADDRESS OF THE PERSON WHO WILL UTILIZE THE
24 ASH IF OTHER THAN THE APPLICANT;

25 (3) A FULL DESCRIPTION OF THE SOURCE AND PROCESSING OF THE ASH
26 TO BE UTILIZED;

27 (4) A COMPLETE PHYSICAL AND CHEMICAL CHARACTERIZATION OF THE
28 ASH, UTILIZING METHODS THAT ARE ACCEPTABLE TO THE DEPARTMENT;

29 (5) A DESCRIPTION OF HOW THE PROPOSED PRODUCT WILL BE USED,
30 INCLUDING THE SITE-SPECIFIC LOCATIONS; AND

1 (6) A DEMONSTRATION THAT THE ASH USE REGISTERED WILL NOT
2 ADVERSELY AFFECT HUMAN HEALTH AND SAFETY, THE ENVIRONMENT, AND
3 NATURAL RESOURCES.

4 (C) THE DEPARTMENT MAY REQUIRE THE SUBMISSION OF ANY ADDITIONAL
5 TOXICOLOGICAL, ENVIRONMENTAL, OR HEALTH EFFECTS DATA THAT THE
6 DEPARTMENT CONSIDERS APPROPRIATE.

7 ~~(B)~~ (D) IN DEVELOPING THE REGULATIONS BEFORE REGISTERING ASH USE,
8 THE DEPARTMENT SHALL MAY:

9 (1) CONSULT WITH THE DEPARTMENT OF HEALTH AND MENTAL
10 HYGIENE;

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

13 (3) CONSIDER:

14 (I) THE FEASIBILITY AND THE HEALTH AND ENVIRONMENTAL
15 RISKS OF USING BOTTOM ASH COMPARED WITH USING COMBINED FLY AND BOTTOM
16 ASH;

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

19 (III) SITE-SPECIFIC RESTRICTIONS AND PROHIBITIONS ON USING
20 ASH, PARTICULARLY INVOLVING USES THAT MIGHT EXPOSE SENSITIVE
21 POPULATIONS OR SENSITIVE NATURAL RESOURCES TO HEALTH OR
22 ENVIRONMENTAL RISKS; AND

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

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

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

32 ~~9-2006.~~

33 ~~ON OR BEFORE JANUARY 1, 2001, THE DEPARTMENT SHALL STUDY AND REPORT~~
34 ~~TO THE GENERAL ASSEMBLY, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT~~
35 ~~ARTICLE, ON:~~

1 ~~(I) WHETHER AND TO WHAT EXTENT VARIOUS ASH PROCESSING~~
2 ~~METHODS AND ASH PRODUCTS CAN REDUCE THE SOLUBILITY OF AND THE RELEASE~~
3 ~~OF METALS, DIOXINS, AND OTHER TOXIC CONSTITUENTS OVER THE LIFE OF THE~~
4 ~~CONSTITUENTS, CONSIDERING, AS APPROPRIATE:~~

5 ~~(I) WEAR AND DESTRUCTION FROM VEHICULAR TRAFFIC,~~
6 ~~WEATHER, GEOLOGICAL AND OTHER NATURAL EVENTS;~~

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

8 ~~(III) DEMOLITION OF STRUCTURES THAT CONTAIN ASH;~~

9 ~~(IV) REUSE OF MATERIALS THAT CONTAIN ASH; AND~~

10 ~~(V) ALL POSSIBLE EXPOSURES OF THESE ASH CONTAINING~~
11 ~~MATERIALS AND STRUCTURES TO WORKERS, THE PUBLIC, AND THE ENVIRONMENT;~~
12 ~~AND~~

13 ~~(2) RECOMMENDATIONS ON:~~

14 ~~(I) PERMISSIBLE AND IMPERMISSIBLE USES OF ASH;~~

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

16 ~~(III) REQUIREMENTS FOR PROCESSING ASH USED AT SECURE~~
17 ~~LANDFILLS UNDER § 9-2004 OF THIS SUBTITLE IN ORDER TO REDUCE THE RELEASE~~
18 ~~OF TOXIC CONSTITUENTS AND TO CONSERVE LANDFILL CAPACITY. WHETHER USES~~
19 ~~SHOULD BE RESTRICTED TO THOSE THAT CAN BE TRACKED.~~

20 ~~(E) THE DEPARTMENT MAY REQUIRE THE APPLICANT TO DEMONSTRATE~~
21 ~~METHODS OF TRACKING THE PHYSICAL LOCATION AND MANNER OF ASH USE IN ALL~~
22 ~~INITIAL AND SUBSEQUENT USES.~~

23 ~~(F) ASH USE WILL NOT BE REGISTERED BY THE DEPARTMENT UNTIL ALL OF~~
24 ~~THE CONDITIONS SET FORTH IN §§ 9-1731 AND 9-1732 OF THIS PART IV ARE MET BY~~
25 ~~THE APPLICANT.~~

26 ~~(G) THE DEPARTMENT MAY REVOKE ANY REGISTRATION MADE UNDER THIS~~
27 ~~SECTION IF THE DEPARTMENT DETERMINES THAT:~~

28 ~~(1) THE BASIS FOR THE ORIGINAL REGISTRATION WAS INCORRECT OR IS~~
29 ~~NO LONGER VALID; OR~~

30 ~~(2) A VIOLATION OF ANY CONDITION THAT THE DEPARTMENT~~
31 ~~ATTACHED TO THE REGISTRATION HAS OCCURRED.~~

32 ~~(H) THE PROVISIONS OF §§ 9-334 THROUGH 9-344 OF THIS TITLE SHALL APPLY~~
33 ~~TO ENFORCE VIOLATIONS OF THIS SECTION OR ANY CONDITIONS OF REGISTRATION~~
34 ~~IMPOSED IN ACCORDANCE WITH THIS SECTION.~~

1 ~~9-2007-9-1733.~~

2 THIS SUBTITLE MAY NOT BE CONSTRUED TO PREEMPT OR PREVAIL OVER ANY
3 ORDINANCE, RESOLUTION, LAW, OR REGULATION MORE STRINGENT THAN THIS
4 SUBTITLE.

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