

HOUSE BILL 395

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M3
HB 615/99 - ENV

2000 Regular Session
0lr0921

By: **Delegates Cryor, Barkley, Barve, Bronrott, Boutin, Cadden, Cane, Carlson, Clagett, Conroy, Dembrow, Dypski, Frush, Glassman, Goldwater, Grosfeld, Heller, Howard, Kach, Leopold, Petzold, Rosso, Riley, Sher, Stern, Stocksdale, Walkup, Kopp, Phillips, La Vay, and Shriver Shriver, and Hubbard**

Introduced and read first time: February 3, 2000
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 25, 2000

CHAPTER _____

1 AN ACT concerning

2 **Potomac River Protection Act**

3 FOR the purpose of ~~prohibiting a person from constructing or blasting in the Potomac~~
4 ~~River under certain circumstances; prohibiting the Secretary of the~~
5 ~~Environment from issuing a waterway construction permit to construct a water~~
6 ~~intake pipe in the Potomac River unless certain circumstances exist; requiring~~
7 ~~the Secretary of the Environment to submit certain reports to the General~~
8 ~~Assembly; prohibiting the Secretary of the Environment from issuing certain~~
9 ~~permits before a certain time except when certain conditions are met; providing~~
10 ~~a certain exception to the prohibition against issuing a permit before a certain~~
11 ~~time; providing that this Act does not preempt or prohibit any ordinance,~~
12 ~~resolution, law, or rule more stringent than this Act; making provisions of this~~
13 ~~Act severable; providing for the legislative intent of this Act; defining a certain~~
14 ~~term; and generally relating to the protection of waters in the Potomac River~~
15 ~~basin.~~

16 ~~BY adding to~~
17 ~~Article Environment~~
18 ~~Section 5-12A-01 through 5-12A-04, inclusive, to be under the new subtitle~~
19 ~~"Subtitle 12A. Potomac River Protection Act"~~
20 ~~Annotated Code of Maryland~~
21 ~~(1996 Replacement Volume and 1999 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 12A. POTOMAC RIVER PROTECTION ACT.**

5 ~~5-12A-01.~~

6 ~~IN THIS SUBTITLE, "MGD" MEANS MILLION OF GALLONS OF WATER PER DAY.~~

7 ~~5-12A-02.~~

8 ~~THE PURPOSE OF THIS SUBTITLE IS TO:~~

9 ~~(1) ASSIST THE PEOPLE OF MARYLAND IN OBTAINING THE PROTECTION~~
10 ~~AND ENHANCEMENT OF THE POTOMAC RIVER IN ACCORDANCE WITH THE~~
11 ~~OBJECTIVES OF ITS AMERICAN HERITAGE RIVER DESIGNATION; AND~~

12 ~~(2) PRESERVE THE POTOMAC RIVER FOR FUTURE GENERATIONS.~~

13 ~~5-12A-03.~~

14 ~~(A) UNTIL STUDIES CONCERNING THE POTOMAC RIVER AND WATER~~
15 ~~RESOURCES IN THE WASHINGTON METROPOLITAN AREA ARE COMPLETED AND~~
16 ~~SUBMITTED TO THE GOVERNOR AND GENERAL ASSEMBLY, A PERSON MAY NOT:~~

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

19 ~~(2) BLAST THE POTOMAC RIVERBED FOR A WATER INTAKE STRUCTURE;~~
20 ~~OR~~

21 ~~(3) CONSTRUCT AN INTAKE STRUCTURE UNLESS THE WATER INTAKE~~
22 ~~STRUCTURE IS AT LEAST 30 INCHES BELOW THE WATER SURFACE AT THE RIVER'S~~
23 ~~HISTORIC LOW FLOW.~~

24 ~~5-12A-04.~~

25 ~~THE SECRETARY MAY NOT GRANT A WATERWAY CONSTRUCTION PERMIT TO~~
26 ~~ANY PERSON TO CONSTRUCT A WATER INTAKE PIPE IN THE POTOMAC RIVER~~
27 ~~UNLESS:~~

28 ~~(1) THE PIPE WILL BE USED AS AN ALTERNATIVE FOR A PIPE ALREADY~~
29 ~~IN USE;~~

30 ~~(2) THE PIPE CANNOT BE USED CONCURRENTLY WITH THE PIPE~~
31 ~~ALREADY IN USE;~~

1 (3) ~~THE PIPE DOES NOT HAVE THE PHYSICAL CAPACITY TO WITHDRAW~~
2 ~~FROM THE POTOMAC RIVER AN AMOUNT OF WATER THAT EXCEEDS THE CAPACITY~~
3 ~~OF THE INTAKE ALREADY IN USE; AND~~

4 (4) ~~THE PIPE IS PLACED NOT LESS THAN 30 INCHES BELOW THE WATER~~
5 ~~SURFACE AT THE RIVER'S HISTORIC LOW FLOW.~~

6 (a) The Secretary of the Environment shall submit the following reports to the
7 General Assembly in accordance with § 2-1246 of the State Government Article:

8 (1) 2000 Water Demand Forecast and Resource Availability Analysis for
9 the Washington Metropolitan Area, prepared by the Interstate Commission on the
10 Potomac River Basin;

11 (2) Potomac River Basin-Wide Water Demand Forecast, prepared by the
12 Interstate Commission on the Potomac River Basin; and

13 (3) Maryland's Source Water Assessment Program, prepared by the
14 Department of the Environment.

15 (b) The Secretary of the Environment may not issue a permit for the
16 construction of a water intake pipe into the Potomac River until 6 months after the
17 Secretary of the Environment has submitted the reports required under subsection
18 (a) of this section unless:

19 (1) The new pipe will replace a pipe already in use;

20 (2) The new pipe cannot be used concurrently with the pipe to be
21 replaced;

22 (3) The new pipe does not have the capacity to withdraw an amount of
23 water that exceeds the amount of water authorized to be withdrawn by the water
24 appropriation permit by more than 5 million gallons of water per day; and

25 (4) The new pipe will be placed at least 30 inches below the water
26 surface at the Potomac River's historic low flow.

27 (c) Subsection (b) of this section does not apply to a person who:

28 (1) Holds or applies for a permit to construct a water intake pipe or
29 structure to withdraw water from the Potomac River; and

30 (2) Returns all or a majority of the water withdrawn to the Potomac
31 River within 3 miles of the point of withdrawal.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be
33 construed to preempt, prevail over, or prohibit adoption of any ordinance, resolution,
34 law, or rule more stringent than this Act.

35 SECTION 2. 3. AND BE IT FURTHER ENACTED, That if any provision of this
36 Act or the application thereof to any person or circumstance is held invalid for any

1 reason in a court of competent jurisdiction, the invalidity does not affect other
2 provisions or any other application of this Act which can be given effect without the
3 invalid provision or application, and for this purpose the provisions of this Act are
4 declared severable.

5 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
6 effect June 1, 2000.