
By: **Delegates Zirkin, Montague, Barkley, Giannetti, Menes, and Dembrow**
Introduced and read first time: February 8, 2002
Assigned to: Environmental Matters and Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **The Chemical Security Act**

3 FOR the purpose of requiring owners, lessees, and operators of certain facilities to
4 study and implement certain safety measures on a periodic basis; requiring
5 certain security measures for certain facilities; establishing penalties for a
6 violation of this Act; defining certain terms; providing that this Act does not
7 affect the availability of other penalties and remedies; requiring the Department
8 of the Environment to adopt certain regulations by a certain date; declaring
9 findings of the General Assembly; making the provisions of this Act severable;
10 and generally relating to security of controlled hazardous substance facilities.

11 BY adding to
12 Article - Environment
13 Section 7-271 through 7-279, inclusive, to be under the new part "Part IX.
14 Facility Security"
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 2001 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 **PART IX. FACILITY SECURITY.**

21 7-271.

22 (A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

23 (B) "FACILITY" MEANS:

24 (1) A CONTROLLED HAZARDOUS SUBSTANCE FACILITY AS DEFINED IN §
25 7-201 OF THIS SUBTITLE; AND

1 (2) ANY OTHER FACILITY, AS DEFINED IN § 7-101 OF THIS TITLE, OF A
2 TYPE THAT THE DEPARTMENT INCLUDES IN THE SCOPE OF THIS PART BY
3 REGULATION.

4 (C) "HAZARDOUS MATERIAL" MEANS:

5 (1) A CONTROLLED HAZARDOUS SUBSTANCE AS DEFINED IN § 7-201 OF
6 THIS SUBTITLE; AND

7 (2) ANY OTHER HAZARDOUS MATERIAL, AS DEFINED IN § 7-101 OF THIS
8 TITLE, OF A TYPE THAT THE DEPARTMENT INCLUDES IN THE SCOPE OF THIS PART BY
9 REGULATION.

10 (D) (1) "INHERENTLY SAFER TECHNOLOGY" MEANS A TECHNOLOGY,
11 PRODUCT, RAW MATERIAL, OR PRACTICE THAT, COMPARED WITH THOSE CURRENTLY
12 IN USE:

13 (I) REDUCES OR ELIMINATES THE POSSIBILITY OF A RELEASE OF A
14 HAZARDOUS MATERIAL FROM THE CHEMICAL SOURCE PRIOR TO SECONDARY
15 CONTAINMENT, CONTROL, OR MITIGATION; AND

16 (II) REDUCES OR ELIMINATES THE THREATS TO PUBLIC HEALTH
17 AND THE ENVIRONMENT ASSOCIATED WITH A RELEASE OR POTENTIAL RELEASE OF
18 A HAZARDOUS MATERIAL FROM THE CHEMICAL SOURCE.

19 (2) "INHERENTLY SAFER TECHNOLOGY" INCLUDES INPUT
20 SUBSTITUTION, CATALYST OR CARRIER SUBSTITUTION, PROCESS REDESIGN,
21 INCLUDING REUSE OR RECYCLING OF A HAZARDOUS MATERIAL, PRODUCT
22 REFORMULATION, PROCEDURE SIMPLIFICATION, AND TECHNOLOGY MODIFICATION
23 THAT:

24 (I) USES BENIGN SUBSTANCES OR LESS HAZARDOUS
25 SUBSTANCES;

26 (II) USES A SMALLER QUANTITY OF COVERED HAZARDOUS
27 MATERIALS;

28 (III) REDUCES HAZARDOUS PRESSURES OR TEMPERATURES;

29 (IV) REDUCES THE POSSIBILITY AND POTENTIAL CONSEQUENCES
30 OF EQUIPMENT FAILURE AND HUMAN ERROR;

31 (V) IMPROVES INVENTORY CONTROL AND CHEMICAL USE
32 EFFICIENCY; AND

33 (VI) REDUCES OR ELIMINATES STORAGE, TRANSPORTATION,
34 HANDLING, DISPOSAL, AND DISCHARGE OF HAZARDOUS MATERIALS.

1 7-272.

2 THE GENERAL ASSEMBLY FINDS THAT:

3 (1) THE PRESENCE OF SIGNIFICANT QUANTITIES OF HAZARDOUS
4 MATERIALS IN POPULATED AREAS OF THE STATE CONSTITUTES A POTENTIAL RISK
5 OF INJURY TO THE CITIZENS OF THE STATE IN THE EVENT OF TERRORISM,
6 SABOTAGE, OR ACCIDENT;

7 (2) HAZARDOUS MATERIALS ARE CURRENTLY STORED IN FACILITIES
8 AND EQUIPMENT IN RAIL YARDS, TANK CARS, AND OTHER AREAS WITHOUT
9 ADEQUATE MEASURES TAKEN TO ENSURE THE SAFETY AND INTEGRITY OF THE
10 MATERIALS IN THE EVENT OF A DELIBERATE ACT OF TERRORISM, SABOTAGE, OR
11 ACCIDENT; AND

12 (3) THE PUBLIC HEALTH, SAFETY, AND WELFARE REQUIRE STRICTER
13 CONTROLS AND SECURITY MEASURES TO BE TAKEN TO PROTECT THE CITIZENS OF
14 THE STATE FROM DEATH AND SERIOUS INJURY THAT MAY RESULT FROM AN ACT OF
15 TERRORISM, SABOTAGE, OR ACCIDENT THAT INVOLVES HAZARDOUS MATERIAL
16 FACILITIES.

17 7-273.

18 THIS PART APPLIES TO ANY PERSON WHO OWNS, OPERATES, MAINTAINS, OR
19 CAUSES TO OPERATE OR MAINTAIN A FACILITY ON OR OVER ANY PROPERTY
20 LOCATED IN THE STATE, INCLUDING RAIL CARS THAT ARE USED PRIMARILY FOR
21 STORAGE OF HAZARDOUS MATERIALS WITHIN A RAIL YARD OR LOCAL TRANSPORT
22 BETWEEN NEARBY RAIL YARDS AND SIDINGS, AND THAT ARE NOT PRIMARILY USED
23 FOR SHIPMENT IN INTERSTATE COMMERCE.

24 7-274.

25 (A) A PERSON WHO IS SUBJECT TO THIS PART AND WHOSE FACILITY ADJOINS
26 A RAIL LINE, STORES HAZARDOUS MATERIALS ON A RAIL LINE, OR IS NEAR A
27 POPULATION CENTER SHALL MAINTAIN, STORE, AND HANDLE ANY HAZARDOUS
28 MATERIAL IN A REASONABLY SECURE AND PRUDENT MANNER IN ORDER TO
29 PREVENT EXPOSURE OR OTHER DANGER, INCLUDING IMPLEMENTING SAFETY
30 MEASURES TO ENSURE THE SECURITY OF RAIL CARS THAT ARE STORED ON RAIL
31 LINES AND USED SOLELY TO CONTAIN HAZARDOUS MATERIALS.

32 (B) ON OR BEFORE JANUARY 1, 2003, AND EVERY 3 YEARS THEREAFTER, THE
33 PERSON SHALL ANALYZE THE SECURITY OF THE FACILITY AND SHALL IMPLEMENT
34 IMPROVEMENTS, INCLUDING INHERENTLY SAFER TECHNOLOGIES AS NECESSARY
35 TO SATISFY THE REQUIREMENTS OF THIS PART.

36 (C) THE PERSON SHALL INFORM THE DEPARTMENT, THE LOCAL
37 GOVERNMENT, AND APPROPRIATE STATE AND LOCAL EMERGENCY RESPONSE UNITS
38 OF ANY MEASURES TAKEN OR PLANNED TO IMPLEMENT THIS PART AT THE FACILITY.

1 7-275.

2 A PERSON WHO IS SUBJECT TO THIS PART SHALL:

3 (1) PROHIBIT UNAUTHORIZED ACCESS TO THE PROPERTY ON WHICH
4 THE FACILITY IS LOCATED BY INSTALLING A WALL, FENCING, OR OTHER
5 APPROPRIATE STRUCTURE SURROUNDING THE PROPERTY OR FACILITY; AND

6 (2) MONITOR THE PROPERTY, THE FACILITY, AND ANY ADJOINING RAIL
7 LINES OR OTHER MEANS OF ACCESS USING SECURITY CAMERAS, REGULAR PATROLS,
8 AND OTHER APPROPRIATE METHODS.

9 7-276.

10 (A) A PERSON WHO KNOWINGLY VIOLATES THIS PART IS GUILTY OF A
11 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

12 (1) FOR A FIRST VIOLATION, IMPRISONMENT NOT EXCEEDING 1 YEAR
13 OR A FINE NOT EXCEEDING \$10,000 OR BOTH; OR

14 (2) FOR A SUBSEQUENT VIOLATION, IMPRISONMENT NOT EXCEEDING 1
15 YEAR OR A FINE NOT EXCEEDING \$25,000 OR BOTH.

16 (B) EACH DAY THAT A VIOLATION OF THIS PART CONTINUES IS A SEPARATE
17 VIOLATION.

18 7-277.

19 IN ADDITION TO THE PENALTIES UNDER THIS SECTION, A CONVICTION OF A
20 VIOLATION OF THIS SECTION CONSTITUTES GROUNDS TO SUSPEND, REVOKE, OR
21 DENY ANY PERMIT THAT THE DEPARTMENT HAS GRANTED OR MAY GRANT TO THE
22 PERSON FOR A FACILITY UNDER THIS TITLE.

23 7-278.

24 NOTHING IN THIS PART MAY BE CONSTRUED TO LIMIT THE AVAILABILITY OF
25 ANY OTHER PENALTY OR REMEDY CONCERNING A FACILITY.

26 7-279.

27 (A) ON OR BEFORE JANUARY 1, 2003, THE DEPARTMENT SHALL ADOPT
28 REGULATIONS TO IMPLEMENT THIS PART.

29 (B) THE REGULATIONS SHALL INCLUDE:

30 (1) ANY ADDITIONAL FACILITIES THAT THE DEPARTMENT INCLUDES IN
31 THE SCOPE OF THIS PART UNDER § 7-271 OF THIS PART;

32 (2) ANY ADDITIONAL HAZARDOUS MATERIALS THAT THE DEPARTMENT
33 INCLUDES IN THE SCOPE OF THIS PART UNDER § 7-271;

1 (3) REPORTING PROCEDURES FOR PERSONS SUBJECT TO THIS PART;
2 AND

3 (4) ANY OTHER PROVISION THAT THE DEPARTMENT CONSIDERS
4 NECESSARY OR USEFUL TO FURTHER THE PURPOSES OF THIS PART.

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

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2002.