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By: **Delegates Glassman and James**

Introduced and read first time: February 7, 2005

Assigned to: Environmental Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2005

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Department of the Environment - Surface Mining - ~~Denial~~ Issuance of**  
 3 **Permits - Prohibition**

4 FOR the purpose of ~~requiring, instead of authorizing, the Department of the~~  
 5 ~~Environment to deny surface mining permits on making a certain finding~~  
 6 prohibiting the Department of the Environment from issuing a surface mining  
 7 permit until the appropriate county has completed a certain review and supplied  
 8 the Department with a certain written statement; and generally relating to the  
 9 ~~denial~~ restricting the issuance of surface mining permits.

10 BY repealing and reenacting, with amendments,  
 11 Article - Environment  
 12 Section 15-810(b), (c), and (d)  
 13 Annotated Code of Maryland  
 14 (1996 Replacement Volume and 2004 Supplement)

15 BY adding to  
 16 Article - Environment  
 17 Section 15-810(c)  
 18 Annotated Code of Maryland  
 19 (1996 Replacement Volume and 2004 Supplement)

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

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**Article - Environment**

2 15-810.

3 (b) The Department may deny the permit on finding that:

4 (1) Any requirement of this subtitle or any rule or regulation adopted  
5 under it will be violated by the proposed operation;6 (2) The operation will have an unduly adverse effect on wildlife or fresh  
7 water, estuarine, or marine fisheries;8 (3) ~~{The applicant has failed to provide applicable permits or approvals~~  
9 ~~covering the operation from all State and local regulatory agencies responsible for air~~  
10 ~~and water pollution, AND sediment control, and zoning;~~11 (4) ~~{~~ The operation will constitute a substantial physical hazard to a  
12 neighboring dwelling house, school, church, hospital, commercial or industrial  
13 building, public road, or other public or private property in existence at the time of  
14 application for the permit;15 ~~{(5)}~~ ~~{(4)}~~ The operation will have a significantly adverse effect on the  
16 uses of a publicly owned park, forest, or recreation area in existence at the time of  
17 application for the permit;18 ~~{(6)}~~ ~~{(5)}~~ The applicant does not possess a valid surface mining license  
19 from the State;20 ~~{(7)}~~ ~~{(6)}~~ The applicant has not corrected all violations which he may  
21 have committed under any prior permit and which resulted in:

22 (i) Revocation of his permit;

23 (ii) Termination of the operation by order of the Department;

24 (iii) Forfeiture of part or all of his bond or other security;

25 (iv) Conviction of a misdemeanor under §§ 15-807(f) and 15-808(k)  
26 of this subtitle; or27 (v) Any other court order issued against the applicant as a result of  
28 departmental action; or29 ~~{(8)}~~ ~~{(7)}~~ Previous experience with similar operations indicates a  
30 substantial probability that the operation will result in substantial deposits of  
31 sediment in stream beds or lakes, landslides, or other water pollution.32 (C) ~~THE DEPARTMENT SHALL DENY THE PERMIT ON FINDING THAT THE~~  
33 ~~APPLICANT HAS FAILED TO PROVIDE APPLICABLE PERMITS OR APPROVALS~~  
34 ~~COVERING THE OPERATION FROM ALL STATE AND LOCAL REGULATORY AGENCIES~~

1 ~~RESPONSIBLE FOR AIR AND WATER POLLUTION, SEDIMENT CONTROL, AND ZONING~~  
2 ~~MAY NOT ISSUE THE PERMIT UNTIL THE APPROPRIATE COUNTY HAS:~~

3           (1)       COMPLETED ITS REVIEW OF THE PROPOSED LAND USE; AND

4           (2)       PROVIDED THE DEPARTMENT WITH A WRITTEN STATEMENT THAT  
5 STATES THAT THE PROPOSED LAND USE CONFORMS WITH ALL APPLICABLE COUNTY  
6 ZONING AND LAND USE REQUIREMENTS.

7       [(c)]     (D)       In the absence of any of these findings, a permit shall be granted.  
8 However, no permit becomes effective until the applicant has deposited with the  
9 Department an acceptable performance bond or other security pursuant to § 15-823  
10 of this subtitle.

11       [(d)]     (E)       Public notice, informational hearings, and contested case hearings  
12 shall be conducted in accordance with the provisions of § 5-204 of this article.

13       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2005.