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By: **Senators Conway, Harris, Hooper, and Jacobs**

Introduced and read first time: February 10, 2005

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Environment - Maryland Oil Disaster Containment, Clean-Up and**  
3 **Contingency Fund and Oil Contaminated Site Environmental Cleanup Fund**

4 FOR the purpose of altering the amount per barrel that is the basis of the fee for the  
5 license for transferring oil in the State which is credited to the Maryland Oil  
6 Disaster Containment, Clean-Up and Contingency Fund; extending the  
7 termination date and altering the fee for a certain additional per barrel fee to be  
8 credited to the Oil Contaminated Site Environmental Cleanup Fund; repealing  
9 a certain provision that authorizes an owner or operator of a certain  
10 underground storage tank to apply to the Oil Contaminated Site Environmental  
11 Cleanup Fund for reimbursement for usual, customary, and reasonable costs  
12 incurred in performing site rehabilitation on or after a certain date; establishing  
13 termination dates for certain provisions that authorize an owner or operator of a  
14 certain underground storage tank or the owner of a certain heating oil tank to  
15 apply to the Oil Contaminated Site Environmental Cleanup Fund for  
16 reimbursement for usual, customary, and reasonable costs incurred in  
17 performing site rehabilitation on or after a certain date; providing that an owner  
18 of a certain heating oil tank must apply for a certain reimbursement within a  
19 certain time period; lowering the deductible applicable to residential owners of  
20 heating oil tanks applying to the Oil Contaminated Site Environmental Cleanup  
21 Fund for reimbursement; increasing the maximum amount that can be  
22 reimbursed from the Oil Contaminated Site Environmental Cleanup Fund for  
23 reimbursement for heating oil tanks per occurrence; requiring the Secretary of  
24 the Environment to convene a certain work group and requiring the Department  
25 to submit a certain report on or before a certain date; deleting certain obsolete  
26 provisions; making certain conforming changes; and generally relating to the  
27 Maryland Oil Disaster Containment, Clean-Up and Contingency Fund and the  
28 Oil Contaminated Site Environmental Cleanup Fund.

29 BY repealing and reenacting, without amendments,  
30 Article - Environment  
31 Section 4-411(a) and (b) and 4-704(a) and (b)  
32 Annotated Code of Maryland  
33 (1996 Replacement Volume and 2004 Supplement)

1 BY repealing and reenacting, with amendments,  
2 Article - Environment  
3 Section 4-411(c), 4-705, and 4-706(b)  
4 Annotated Code of Maryland  
5 (1996 Replacement Volume and 2004 Supplement)

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

8 **Article - Environment**

9 4-411.

10 (a) In this section the following words and phrases have the meanings  
11 indicated.

12 (1) "Fund" means the Maryland Oil Disaster Containment, Clean-Up  
13 and Contingency Fund.

14 (2) "Transfer" means the offloading or unloading of oil in the State from  
15 or to any commercial vessel, barge, tank truck, tank car, pipeline, or any other means  
16 used for transporting oil.

17 (3) "Barrel" means any measure of petroleum products or its by-products  
18 which consists of 42.0 U.S. gallons of liquid measure.

19 (b) A person other than a vessel or barge may not transfer oil in the State  
20 without a license.

21 (c) (1) A license required under this section shall be secured from the  
22 Department of the Environment subject to the terms and conditions set forth in this  
23 section. The fee on any barrel shall be imposed only once, at the point of first transfer  
24 in the State. The license fee shall be:

25 (i) [Based on a 2 cents per barrel fee for oil transferred in the State  
26 and credited] CREDITED to the Maryland Oil Disaster Containment, Clean-Up and  
27 Contingency Fund AND BASED ON:

28 1. BEFORE JULY 1, 2010, A 4 CENTS PER BARREL FEE FOR OIL  
29 TRANSFERRED IN THE STATE; AND

30 2. ON OR AFTER JULY 1, 2010, A 3 CENTS PER BARREL FEE  
31 FOR OIL TRANSFERRED IN THE STATE; and

32 (ii) Until July 1, [2005] 2010, based on an additional [1 cent] 1.75  
33 CENTS per barrel fee for oil transferred in the State and credited to the Oil  
34 Contaminated Site Environmental Cleanup Fund as described in Subtitle 7 of this  
35 title.

1           (2)     The license fee shall be paid quarterly to the Department and on  
2 receipt by the Comptroller, credited to the proper fund. The licensee shall certify to  
3 the Department, on forms as may be prescribed by the Department, the number of  
4 barrels of oil transferred by the licensee during the fee quarter no later than the last  
5 day of the month following the fee quarter. These records shall be kept confidential by  
6 the Department.

7           (3)     When the balance in the Maryland Oil Disaster Containment,  
8 Clean-Up and Contingency Fund from the monthly license fees paid under paragraph  
9 (1)(i) of this subsection into the Fund equals or exceeds a maximum limit of  
10 \$5,000,000, collection of subsequent monthly license fees under paragraph (1)(i) of  
11 this subsection shall be abated until:

12           (i)     The balance in the Fund from the license fees becomes less than  
13 or equal to \$4,000,000; or

14           (ii)    There is evidence that the balance in the Fund could be  
15 significantly reduced by the recent occurrence of a major discharge or series of  
16 discharges.

17           (4)     If a licensee fails to remit the fee and accompanying certification  
18 required by this section, the amount of the license fee due shall be determined by the  
19 Department from information as may be available. Notice of this determination shall  
20 be given to the licensee liable for payment of the license fee. The determination shall  
21 finally and irrevocably fix the fee unless the licensee against whom it is assessed,  
22 within 30 days after receiving notice of the determination, shall apply to the  
23 Department for a hearing or unless the Department, on its own, shall redetermine the  
24 fee.

25           (5)     The Department shall promulgate rules and regulations, establish  
26 audit procedures for the audit of licensees, and prescribe and publish forms as may be  
27 necessary to effectuate the purposes of this section.

28 4-704.

29           (a)     There is an Oil Contaminated Site Environmental Cleanup Fund.

30           (b)     Subject to subsection (c) of this section, the Fund shall be used to:

31           (1)     Reimburse an owner or operator of:

32           (i)     An underground oil storage tank subject to the requirements of  
33 § 4-409(b)(3) of this title for site rehabilitation costs incurred on or after October 1,  
34 1993 resulting from contamination caused by releases from an underground oil  
35 storage tank;

36           (ii)    An underground oil storage tank not subject to the  
37 requirements of § 4-409(b)(3) of this title for site rehabilitation costs incurred on or  
38 after October 1, 2000 resulting from contamination caused by releases from an  
39 underground oil storage tank; or

1 (iii) A heating oil tank for site rehabilitation costs incurred on or  
2 after October 1, 2000 resulting from contamination caused by releases from a heating  
3 oil tank including piping connected to the tank;

4 (2) Provide funds for site rehabilitation activities carried out by the  
5 Department or under the Department's direction and control; and

6 (3) To the extent provided in the State budget and in an amount not to  
7 exceed 8% of the revenues in the Fund during the fiscal year, provide funds for the  
8 Department's administration of this subtitle.

9 4-705.

10 (a) [The owner or operator of an underground oil storage tank eligible under §  
11 4-704(b)(1)(i) of this subtitle may apply to the Fund for reimbursement, on or after  
12 October 1, 1993, for usual, customary, and reasonable costs incurred on or after  
13 October 1, 1993 in performing site rehabilitation.

14 (b) The owner or operator of an underground oil storage tank eligible under §  
15 4-704(b)(1)(ii) of this subtitle may apply to the Fund for reimbursement, [on or after  
16 October 1, 2000] UNTIL DECEMBER 31, 2007, for usual, customary, and reasonable  
17 costs incurred on or after October 1, 2000 in performing site rehabilitation.

18 [(c)] (B) The owner of a heating oil tank eligible under § 4-704(b)(1)(iii) of this  
19 subtitle may apply to the Fund NO LATER THAN 6 MONTHS AFTER REHABILITATION  
20 COMPLETION for reimbursement, [on or after October 1, 2000] UNTIL JUNE 30, 2010,  
21 for usual, customary, and reasonable costs incurred on or after October 1, 2000 in  
22 performing site rehabilitation.

23 [(d)] (C) (1) Any reimbursement from the Fund for applications approved on  
24 or after July 1, 1996 is subject to:

25 (i) For owners or operators of six tanks or fewer, a deductible of  
26 \$7,500;

27 (ii) For owners or operators of more than 6 but not more than 15  
28 tanks, a deductible of \$10,000;

29 (iii) For owners or operators of more than 15 but not more than 30  
30 tanks, a deductible of \$15,000;

31 (iv) For owners or operators of more than 30 tanks, a deductible of  
32 \$20,000; and

33 (v) For residential owners of heating oil tanks, a deductible of  
34 [\$1,000] \$500; and

35 (2) The maximum amount to be reimbursed from the Fund shall be:

36 (i) \$125,000 for underground oil storage tanks per occurrence; and

1 (ii) [\$10,000] \$20,000 for heating oil tanks per occurrence.

2 [(e)] (D) To be eligible for reimbursement from the Fund, an owner or operator  
3 shall:

4 (1) Certify that the discharge is not the result of a willful or deliberate  
5 act;

6 (2) Submit a corrective action plan, schedule, and cost estimate to the  
7 Department that shall include provisions for the environmentally sound treatment or  
8 disposal of contaminated soils that meet all federal and State requirements and  
9 standards; and

10 (3) Except for heating oil tanks, certify that the discharge is from a tank  
11 registered under § 4-411.1 of this title.

12 [(f)] (E) If the owner or operator knowingly submits a false certification under  
13 subsection (e) of this section, that owner or operator is not eligible for reimbursement  
14 under this subtitle.

15 [(g)] (F) Only expenses that are cost-effective, reasonable, and consistent  
16 with a corrective action plan approved by the Department may be eligible for  
17 reimbursement from the Fund.

18 [(h)] (G) The cost for replacement or retrofitting of underground oil storage  
19 tanks or heating oil tanks and associated piping is not eligible for reimbursement,  
20 and the Department may not incur these costs or expend moneys from the Fund for  
21 these purposes.

22 4-706.

23 (b) The per occurrence deductible or limitation provided under [§ 4-705(d)] §  
24 4-705(C) of this subtitle does not apply to the reimbursement or guarantee to a  
25 contractor under this section.

26 SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of the  
27 Environment shall convene a work group consisting of representatives of the various  
28 sectors of the petroleum marketing industry and representatives from appropriate  
29 public and private entities to review and assess long-term funding needs of the oil  
30 pollution programs in the State. Subject to § 2-1246 of the State Government Article,  
31 the Department of the Environment shall report the findings and recommendations  
32 of the work group to the Legislative Policy Committee, the House Environmental  
33 Matters Committee, and the Senate Education, Health, and Environmental Affairs  
34 Committee on or before December 31, 2009.

35 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
36 July 1, 2005.