

# HOUSE BILL 1403

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EMERGENCY BILL

71r3085

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By: **Delegates Olszewski, Aumann, Beidle, Bromwell, Cardin, V. Clagett, DeBoy, Frush, Glenn, Impallaria, Kach, Lafferty, Minnick, Stein, Stukes, Tarrant, and Weir**

Introduced and read first time: March 5, 2007

Assigned to: Rules and Executive Nominations

Re-referred to: Environmental Matters, March 12, 2007

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 22, 2007

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

### 2 **Critical Area – Construction of a Facility – Prohibition**

3 FOR the purpose of prohibiting a certain facility from being located or constructed on  
4 certain lands in certain counties unless the facility is located or constructed in  
5 accordance with a certain program; prohibiting a unit of State government from  
6 issuing a certain permit unless a certain finding is made by the Department of  
7 the Environment and the Department of Natural Resources; defining certain  
8 terms; providing for the application of this Act; making this Act an emergency  
9 measure; and generally relating to construction of facilities on lands in the  
10 Chesapeake Bay and Atlantic Coastal Bays Critical Area.

11 BY repealing and reenacting, without amendments,  
12 Article – Environment  
13 Section 14–501(e)  
14 Annotated Code of Maryland  
15 (1996 Replacement Volume and 2006 Supplement)

16 BY adding to

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Natural Resources  
Section 8–1808.10  
Annotated Code of Maryland  
(2000 Replacement Volume and 2006 Supplement)

Preamble

WHEREAS, The General Assembly finds that certain facilities pose inherent and heightened environmental and public safety risks when located in proximity to densely populated areas; and

WHEREAS, The General Assembly further finds that the substantial population and intense industrial and port-related development activity concentrated in the coastal areas of the Baltimore metropolitan region necessitate the increased scrutiny of certain facilities to ensure that environmental impacts are minimized in these areas for the protection of the general population and the integrity of the Chesapeake Bay; now, therefore,

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

**Article – Environment**

14–501.

(e) “Facility” means:

(1) Any pipeline carrying crude oil or natural gas ashore from offshore sources;

(2) Any intermediate production terminal or refinery which is designed to process at least ten thousand barrels of crude oil per calendar day;

(3) Any crude oil storage facility:

(i) Whose total design capacity is at least 100,000 barrels; or

(ii) Which occupies at least fifty acres; or

(iii) Whose average throughput is at least ten thousand barrels per calendar day;

(4) Any facility for the processing, transmission, or storage of natural gas with a total design capacity for at least one billion cubic feet of gas for storage or two hundred million cubic feet for processing;

(5) Any operations base which:

(i) Includes port and harbor facilities;

(ii) Occupies at least twenty-five acres; and

(iii) Is designed, constructed and operated as an assembly area for the storage, handling, and transport of supplies whose next and final destination is any oil and/or gas exploration, development, or production-related operation conducted in the territorial sea, contiguous zone or high seas area; or

(6) Any fabrication yard which is an assembly operation used for the construction or preparation of petroleum drilling rigs, jackets or platforms, or wellhead installations, whose final destination is installation or operation in the territorial sea, contiguous zone, or high seas area.

#### **Article – Natural Resources**

#### **8-1808.10.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CONSTRUCTION” INCLUDES ACTIVITIES SUCH AS CLEARING, GRADING, EXCAVATING, BUILDING, DREDGING, OR ANY OTHER ACTION THAT WOULD AFFECT THE NATURAL ENVIRONMENT OF THE CRITICAL AREA.

(3) ~~(1)~~ “FACILITY” HAS THE MEANING STATED IN § 14-501(E) OF THE ENVIRONMENT ARTICLE.

~~(H) “FACILITY” INCLUDES A FACILITY DESIGNED FOR:~~

~~1. NONMARITIME HEAVY INDUSTRY;~~

~~2. TRANSPORTATION, EXCEPT A FACILITY THAT IS NECESSARY TO SERVE PERMITTED USES, OR WHERE REGIONAL OR INTERSTATE FACILITIES MUST CROSS TIDAL WATERS;~~

1                               ~~3.   UTILITY TRANSMISSION, EXCEPT A FACILITY~~  
2 ~~THAT IS NECESSARY TO SERVE PERMITTED USES, WHERE REGIONAL OR~~  
3 ~~INTERSTATE FACILITIES MUST CROSS TIDAL WATERS, OR EXISTING POWER~~  
4 ~~PLANTS;~~

5                               ~~4.   PERMANENT SLUDGE HANDLING, STORAGE, AND~~  
6 ~~DISPOSAL, OTHER THAN THOSE ASSOCIATED WITH A PERMITTED WASTEWATER~~  
7 ~~TREATMENT PLANT;~~

8                               ~~5.   SOLID OR HAZARDOUS WASTE COLLECTION OR~~  
9 ~~DISPOSAL; OR~~

10                              ~~6.   A SANITARY LANDFILL.~~

11               (B)   THIS SECTION APPLIES ONLY IN ANNE ARUNDEL COUNTY,  
12 BALTIMORE CITY, AND BALTIMORE COUNTY.

13               (C)   A FACILITY MAY NOT BE CONSTRUCTED OR LOCATED ON ANY LAND  
14 WITHIN A CRITICAL AREA DESIGNATED IN ACCORDANCE WITH § 8-1807 OF THIS  
15 SUBTITLE UNLESS THE FACILITY IS CONSTRUCTED OR LOCATED IN  
16 ACCORDANCE WITH THE STATE'S FEDERALLY APPROVED COASTAL ZONE  
17 MANAGEMENT PROGRAM.

18               (D)   A UNIT OF STATE GOVERNMENT MAY NOT ISSUE A PERMIT FOR A  
19 FACILITY UNLESS THERE IS A FINDING BY THE DEPARTMENT OF THE  
20 ENVIRONMENT AND THE DEPARTMENT OF NATURAL RESOURCES THAT THE  
21 PROPOSED FACILITY IS NOT INCONSISTENT WITH THE GENERAL ASSEMBLY'S  
22 DECLARATION OF PUBLIC POLICY UNDER § 8-1801 OF THIS SUBTITLE.

23               (E)   THIS SECTION DOES NOT APPLY TO A FACILITY THAT EXISTED AND  
24 WAS IN OPERATION ON JANUARY 1, 2007, INCLUDING ANY EXPANSION OR  
25 MODIFICATION OF THE FACILITY.

26               SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
27 measure, is necessary for the immediate preservation of the public health or safety,  
28 has been passed by a ye and nay vote supported by three-fifths of all the members  
29 elected to each of the two Houses of the General Assembly, and shall take effect from  
30 the date it is enacted.