

# SENATE BILL 499

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By: **Senators Brinkley, Haines, and Munson**

Introduced and read first time: February 2, 2007

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Water Appropriation Permits – Groundwater Recharge Area**

3 FOR the purpose of requiring the Department of the Environment to include certain  
4 lands, under certain circumstances, within the lands considered to be under the  
5 control of a municipal corporation for purposes of the calculation of a  
6 groundwater recharge area in an application for water appropriation permit  
7 submitted by the municipal corporation; providing for the application of this  
8 Act; and generally relating to water appropriation permits.

9 BY repealing and reenacting, without amendments,  
10 Article – Environment  
11 Section 5–502  
12 Annotated Code of Maryland  
13 (1996 Replacement Volume and 2006 Supplement)

14 BY adding to  
15 Article – Environment  
16 Section 5–502.1  
17 Annotated Code of Maryland  
18 (1996 Replacement Volume and 2006 Supplement)

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

21 **Article – Environment**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 5-502.

2 (a) Every person is required to obtain a permit from the Department to  
3 appropriate or use or begin to construct any plant, building, or structure which may  
4 appropriate or use any waters of the State, whether surface water or groundwater.  
5 The permit is obtained upon written application to the Department. The applicant  
6 shall provide the Department with satisfactory proof that the proposed withdrawal of  
7 water will not jeopardize the State's natural resources.

8 (b) This section does not apply to use of water for:

9 (1) Domestic purposes other than for heating and cooling; or

10 (2) Agricultural purposes, if the average annual water use is less than  
11 10,000 gallons per day, except as provided in subsection (c)(2) of this section.

12 (c) (1) The Department shall issue a permit to a person using water prior  
13 to July 1, 1988 for agricultural purposes upon written application to the Department.

14 (2) A person using less than an annual average of 10,000 gallons of  
15 water per day for agricultural purposes may apply for a permit to appropriate or use  
16 waters of the State.

17 (d) When the Department determines that a water supply emergency exists  
18 and available water supplies are inadequate in an area to meet the needs of all  
19 persons who have permits under this subtitle, the following uses shall have priority for  
20 appropriation or use of water in the order listed:

21 (1) Domestic and municipal uses for sanitation, drinking water, and  
22 public health and safety;

23 (2) Agricultural uses, including the processing of agricultural  
24 products; and

25 (3) All other uses.

26 (e) Notwithstanding any other provision of this subtitle, an application for a  
27 certificate of public convenience and necessity associated with power plant  
28 construction which involves use or diversion of waters of the State made to the Public  
29 Service Commission under the Public Utility Companies Article constitutes an  
30 application for the permit required by this section, and the provisions of § 3-306 of the  
31 Natural Resources Article apply. If an application is made to the Public Service  
32 Commission, the hearing provided for by this subtitle is not required. All evidence

relevant to the purposes of this subtitle shall be presented at the hearing held by the Public Service Commission, as required by § 7-207 of the Public Utility Companies Article. The permit required by this subtitle is included in the certificate of public convenience and necessity issued by the Public Service Commission.

**5-502.1.**

**(A) THIS SECTION APPLIES TO A WATER APPROPRIATION PERMIT APPLICATION THAT IS SUBMITTED BY A MUNICIPAL CORPORATION IN ACCORDANCE WITH § 5-502 OF THIS SUBTITLE.**

**(B) FOR A WATER APPROPRIATION PERMIT APPLICATION SUBMITTED BY A MUNICIPAL CORPORATION, THE DEPARTMENT, FOR PURPOSES OF CALCULATING THE MUNICIPAL CORPORATION'S GROUNDWATER RECHARGE AREA, SHALL INCLUDE THE FOLLOWING TYPES OF LAND AS LAND THAT IS UNDER THE CONTROL OF THE MUNICIPAL CORPORATION:**

**(1) LAND WITHIN A PUBLIC WATER SERVICE AREA THAT IS SUPPLIED BY THE APPLICANT;**

**(2) LAND THAT IS PLANNED FOR A PUBLIC SERVICE CONNECTION TO THE MUNICIPAL CORPORATION'S WATER SERVICE AREA WITHIN THE SAME TIME PERIOD THAT THE WATER APPROPRIATION PERMIT WOULD BE EFFECTIVE;**

**(3) LAND WITHIN A PERMANENT RESTRICTIVE EASEMENT, ONCE THE EXISTING AND REASONABLY FORESEEABLE GROUNDWATER USES ON THE LAND HAVE BEEN SERVED;**

**(4) PUBLIC PARKS AND LANDS, INCLUDING STATE-OWNED FOREST AND PARKS, THAT SURROUND THE APPLICANT'S EXISTING GROUNDWATER RECHARGE AREA;**

**(5) PUBLIC OPEN SPACES THAT SURROUND THE APPLICANT'S EXISTING GROUNDWATER RECHARGE AREA AND ARE REASONABLY EXPECTED TO BE UNDERDEVELOPED SUCH AS FLOODPLAINS, WETLANDS, STEEP SLOPES, AND FORESTS;**

**(6) OTHER PUBLICLY OWNED LAND INCLUDING:**

**(I) LAND HELD IN A PUBLIC TRUST OR EASEMENT; OR**

1                           **(II) LAND THAT HAS A RESTRICTION ON IT BY REGULATION**  
2 **OR ORDINANCE;**

3                           **(7) LAND IN A SINGLE-FAMILY RESIDENTIAL SUBDIVISION IN THE**  
4 **MUNICIPAL CORPORATION'S WATER SERVICE AREA IF:**

5                           **(I) IT IS FULLY SUBDIVIDED;**

6                           **(II) IS SUBJECT TO A DEED RESTRICTION THAT PROHIBITS**  
7 **REDEVELOPMENT FOR MORE INTENSIVE GROUNDWATER USES; AND**

8                           **(III) CONTAINS UNUSED GROUNDWATER RECHARGE; AND**

9                           **(8) ANY LAND WITHIN THE APPROVED COUNTY WATER AND**  
10 **SEWERAGE SYSTEMS PLAN AS REQUIRED UNDER TITLE 9, SUBTITLE 5 OF THIS**  
11 **ARTICLE THAT IS UNDER THE CONTROL OF THE MUNICIPAL CORPORATION.**

12           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2007.