

SENATE BILL 442

M3

8lr2543

By: **Senators Frosh, Conway, and Pinsky**

Introduced and read first time: January 31, 2008

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 4, 2008

CHAPTER _____

1 AN ACT concerning

2 **Environment – Clean Air Permit Fees**

3 FOR the purpose of ~~prohibiting all~~ altering the circumstances under which certain
4 moneys in the Maryland Clean Air Fund ~~from reverting or being transferred to~~
5 must be deposited in the General Fund; increasing the maximum amount of a
6 certain fee; ~~eliminating~~ increasing the cap on a certain fee in certain years;
7 eliminating the cap on a certain fee after a certain year; clarifying the
8 calculation of certain fees; altering a certain definition; removing obsolete
9 language; making stylistic changes; and generally relating to air quality and
10 permit fees.

11 BY repealing and reenacting, with amendments,
12 Article – Environment
13 Section ~~2-107~~ 2-101(h), 2-107, and 2-403
14 Annotated Code of Maryland
15 (2007 Replacement Volume and 2007 Supplement)

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

18 **Article – Environment**

19 2-101.

20 (h) “Regulated emissions” means the actual rate of emissions, in tons per
21 year, of any registered pollutant emitted by a source, to be calculated using criteria

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.



1 consistent with 40 CFR 70 (operating permit program)], and subject to a limit of 4,000
2 tons per year of any single pollutant].

3 2–107.

4 (a) There is a Maryland Clean Air Fund.

5 (b) All application fees, permit fees, renewal fees, and funds collected by the
6 Department under this title or Title 6, Subtitle 4 of this article, including any civil or
7 administrative penalty or any fine imposed by a court under these provisions, shall be
8 paid into the Maryland Clean Air Fund.

9 (c) (1) Subject to the appropriation process in the annual operating
10 budget, the Department shall use the Maryland Clean Air Fund for:

11 (i) Activities conducted under this title that are related to
12 identifying, monitoring, and regulating air pollution in this State, including program
13 development of these activities as provided in the State budget; and

14 (ii) Providing grants to local governments to supplement
15 funding for programs conducted by local governments that are consistent with this
16 title and the State program.

17 (2) Subject to Title 10, Subtitle 1 of the State Government Article
18 (Administrative Procedure Act – Regulations), the Department shall adopt rules and
19 regulations for the management and use of the money in the Fund.

20 (3) At the end of the fiscal year, the Department shall prepare an
21 annual report on the Maryland Clean Air Fund that includes an accounting of all
22 financial receipts and expenditures to and from the Fund and shall:

23 (i) Provide a copy of the report to the General Assembly, as
24 provided under § 2–1246 of the State Government Article; and

25 (ii) Upon request, make the report available to permit holders
26 under this title.

27 (4) ~~When the Fund equals or exceeds a maximum limit of \$750,000~~
28 **\$2,000,000**, additional moneys received for the Fund by the Department shall be
29 deposited to the General Fund. ~~MONEYS IN THE FUND MAY NOT REVERT OR BE~~
30 ~~TRANSFERRED TO THE GENERAL FUND OF THE STATE.~~

31 2–403.

32 (a) (1) The Department, by regulation, shall require and collect a fee for
33 each permit issued under § 2–401 of this subtitle.

1 (2) In adopting the regulations under this section, the Department
 2 shall consult with industry to determine that the permit fee is reasonable and directly
 3 related to the actual cost of the permitting and regulatory activity, and does not exceed
 4 a certain dollar amount.

5 (b) (1) The amount of the fees shall cover:

6 (i) The reasonable cost of reviewing and acting on the
 7 application for the permits;

8 (ii) The reasonable costs incurred in implementing and
 9 enforcing the terms and conditions of the permits, exclusive of any court costs or other
 10 costs associated with any enforcement actions; and

11 (iii) The costs identified in § 502(b)(3) of the Clean Air Act
 12 Amendments of 1990.

13 (2) Fees assessed and collected under this section shall be used
 14 exclusively for the development and administration of the permit program under this
 15 subtitle.

16 (c) ~~[(1)]~~ The fee established under this section may not exceed~~]:~~

17 ~~(i) For calendar year 1993, \$15 per ton of regulated emissions;~~

18 ~~(ii) For calendar year 1994, \$18 per ton of regulated emissions;~~

19 ~~(iii) For calendar year 1995, \$20 per ton of regulated emissions;~~

20 ~~and~~

21 ~~(iv) For calendar year 1996 and each calendar year thereafter,~~
 22 ~~\$25 per ton of regulated emissions.~~

23 ~~(2) The fee established under this section may not exceed, for any~~
 24 ~~single source, \$200,000]~~

25 (I) \$50 PER TON OF REGULATED EMISSIONS; AND

26 (II) \$500,000 FOR ANY SINGLE SOURCE IN CALENDAR YEARS
 27 2008 AND 2009.

28 (2) FOR PURPOSES OF CALCULATING FEES UNDER THIS SECTION,
 29 CARBON DIOXIDE EMISSIONS SHALL BE EXCLUDED.

30 (3) [For purposes of this section, starting in calendar year 1997, the
 31 dollar amounts used in] **THE FEE ESTABLISHED UNDER** this section may be adjusted
 32 to reflect changes in the Consumer Price Index, as authorized by 40 CFR Part 70
 33 (Operating Permit Program).

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.