

# CHAPTER 106

(House Bill 977)

AN ACT concerning

## Controlled Hazardous Substances – Discharge or Release – Reporting Requirements

FOR the purpose of requiring ~~a person who discharges or releases, participates in the discharge or release, or has~~ certain persons that possess certain evidence of a discharge or release of a hazardous substance under certain circumstances to report the ~~incident~~ finding immediately to the Department of the Environment; requiring the Department to consider certain factors in determining certain thresholds for reporting a release of a hazardous substance; authorizing requiring the Department to adopt certain regulations on or before a certain date; and generally relating to controlled hazardous substances.

BY repealing and reenacting, with amendments,

Article – Environment

Section 7-222

Annotated Code of Maryland

(2007 Replacement Volume and 2007 Supplement)

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

### Article – Environment

7-222.

~~(A) NOTWITHSTANDING ANY PROVISION OF THIS SUBTITLE OR ANY FEDERAL REPORTING REQUIREMENT, ANY PERSON WHO DISCHARGES OR RELEASES, ACTIVELY OR PASSIVELY PARTICIPATES IN THE DISCHARGE OR RELEASE, OR POSSESSES EVIDENCE OF A DISCHARGE OR RELEASE OF A HAZARDOUS SUBSTANCE SHALL REPORT THE INCIDENT OR FINDING IMMEDIATELY TO THE DEPARTMENT.~~

~~{(a)}~~ ~~(B)~~ If any hazardous substance is released or there is a substantial threat of a release into the environment, unless the Secretary determines that a removal and remedial action will be done properly and in a timely manner by the owner or operator of the facility from which the release or threat of release emanates, or by any other responsible party, the Secretary may:

(1) Enter any site or facility to carry out the provisions of this section;  
and

(2) (i) Act consistent with the State Hazardous Substance Response Plan to remove or arrange for the removal of and provide for remedial action relating to the hazardous substance at any time, including its removal from any contaminated natural resources;

(ii) When the Secretary determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment, take any other response measure consistent with the State Hazardous Substance Response Plan necessary to protect the public health or welfare or the environment; or

(iii) In addition to any other action authorized under this subtitle, when the Secretary determines that there may be an imminent and substantial endangerment to the public health or welfare or to the environment, issue orders to or seek injunctive relief against responsible persons as may be necessary to protect the public health and welfare or the environment.

~~[(b)] (c)~~ The Department in any removal or remedial action under this subtitle may not duplicate removal or remedial actions taken under the federal act.

~~[(c)] (d)~~ If entry to enable the Secretary to carry out the provisions of this section is denied, the Secretary may:

- (1) Obtain a search warrant pursuant to § 7-256.1 of this subtitle; or
- (2) Obtain an injunction to enter.

~~(e) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.~~

**(D) (1) ON OR AFTER OCTOBER 1, 2009, A RESPONSIBLE PERSON THAT POSSESSES A SAMPLE RESULT OR OTHER ENVIRONMENTAL ASSESSMENT THAT INDICATES THE RELEASE OF A HAZARDOUS SUBSTANCE INTO THE ENVIRONMENT, AT OR ABOVE A THRESHOLD ESTABLISHED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, SHALL REPORT THE FINDING IMMEDIATELY TO THE DEPARTMENT.**

**(2) IN DETERMINING A REPORTABLE THRESHOLD OF A RELEASE OF A HAZARDOUS SUBSTANCE, THE DEPARTMENT SHALL CONSIDER:**

- (I) THE QUANTITY OF A HAZARDOUS SUBSTANCE;**

**(II) THE ASSOCIATED RISK FACTORS OF A HAZARDOUS SUBSTANCE; AND**

**(III) ANY OTHER FACTOR DETERMINED NECESSARY BY THE DEPARTMENT.**

**(3) ON OR BEFORE JUNE 30, 2009, THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION.**

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

**Approved by the Governor, April 8, 2008.**