

# SENATE BILL 4

M3, C5

9lr0382

(PRE-FILED)

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By: **Senator Harrington**

Requested: July 1, 2008

Introduced and read first time: January 14, 2009

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Permitting Process – Environmental Justice Review**

3 FOR the purpose of requiring the Department of the Environment, in consultation  
4 with the Commission on Environmental Justice and Sustainable Communities  
5 and the Department of Planning, to develop certain maps on or before a certain  
6 date; prohibiting the Department of the Environment from issuing or renewing  
7 certain permits until a permit applicant conducts an Environmental Justice  
8 Review; requiring the Department of the Environment to make certain  
9 determinations; requiring a permit applicant to submit certain information to  
10 the Department of the Environment under certain circumstances; establishing  
11 penalties for certain violations; repealing a certain term; requiring an owner of  
12 a certain facility to submit an Environmental Justice Review under certain  
13 circumstances; requiring the owner of a certain facility to submit certain  
14 information to the Department of the Environment under certain  
15 circumstances; altering a certain reporting requirement; defining certain terms;  
16 and generally relating to environmental justice in the State.

17 BY renumbering

18 Article – Environment

19 Section 1–701

20 to be Section 1–705

21 Annotated Code of Maryland

22 (2007 Replacement Volume and 2008 Supplement)

23 BY adding to

24 Article – Environment

25 Section 1–701 through 1–704

26 Annotated Code of Maryland

27 (2007 Replacement Volume and 2008 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article – Environment  
3 Section 1–705  
4 Annotated Code of Maryland  
5 (2007 Replacement Volume and 2008 Supplement)  
6 (As enacted by Section 1 of this Act)

7 BY adding to  
8 Article – Public Utility Companies  
9 Section 11–101.1  
10 Annotated Code of Maryland  
11 (2008 Replacement Volume and 2008 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
13 MARYLAND, That Section(s) 1–701 of Article – Environment of the Annotated Code of  
14 Maryland be renumbered to be Section(s) 1–705.

15 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
16 read as follows:

17 **Article – Environment**

18 **1–701.**

19 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
20 INDICATED.

21 (B) “COMMISSION” MEANS THE COMMISSION ON ENVIRONMENTAL  
22 JUSTICE AND SUSTAINABLE COMMUNITIES.

23 (C) “ENVIRONMENTAL JUSTICE” MEANS THE FAIR TREATMENT AND  
24 MEANINGFUL INVOLVEMENT OF ALL PEOPLE REGARDLESS OF RACE, COLOR, OR  
25 INCOME WITH RESPECT TO THE DEVELOPMENT, IMPLEMENTATION, AND  
26 ENFORCEMENT OF ENVIRONMENTAL LAWS, REGULATIONS, AND POLICIES.

27 (D) “ENVIRONMENTAL JUSTICE REVIEW” MEANS A WRITTEN REPORT  
28 THAT IS SUBMITTED TO THE DEPARTMENT, WHICH INCLUDES:

29 (1) A DESCRIPTION OF THE PROPOSED ACTION;

30 (2) A DESCRIPTION OF THE HISTORIC USES OF THE SITE OR  
31 FACILITY WHERE THE ACTION IS PROPOSED TO OCCUR;

32 (3) A DEMOGRAPHIC PROFILE OF THOSE PERSONS WHO WILL BE  
33 AFFECTED BY THE PROPOSED ACTION, INCLUDING THOSE PERSONS USING,

1 WORKING, OR LIVING ON OR WITHIN A 2-MILE RADIUS OF THE SITE OR FACILITY  
2 ON WHICH THE PROPOSED ACTION WILL OCCUR;

3 (4) A DESCRIPTION OF POTENTIAL ADVERSE ENVIRONMENTAL  
4 IMPACTS TO LAND, AIR, AND WATER RESOURCES WITHIN A 2-MILE RADIUS OF  
5 THE SITE OR FACILITY ON WHICH THE PROPOSED ACTION WILL OCCUR;

6 (5) A DESCRIPTION OF POTENTIAL ADVERSE HUMAN HEALTH  
7 IMPACTS TO THOSE PERSONS USING, WORKING, OR LIVING ON OR WITHIN A  
8 2-MILE RADIUS OF THE SITE OR FACILITY ON WHICH THE PROPOSED ACTION  
9 WILL OCCUR;

10 (6) A DESCRIPTION OF POTENTIAL ECONOMIC IMPACTS TO  
11 THOSE PERSONS USING, WORKING, OR LIVING ON OR WITHIN A 2-MILE RADIUS  
12 OF THE SITE OR FACILITY ON WHICH THE PROPOSED ACTION WILL OCCUR;

13 (7) A DESCRIPTION OF ANY POTENTIAL ADVERSE IMPACTS TO  
14 ENVIRONMENTALLY STRESSED COMMUNITIES CAUSED BY THE PROPOSED  
15 ACTION; AND

16 (8) ANY PUBLIC EDUCATION OR COMMUNITY OUTREACH  
17 EFFORTS THAT THE APPLICANT IS PLANNING TO CONDUCT BEFORE, DURING,  
18 OR ON COMPLETION OF THE PROPOSED ACTION.

19 (E) "ENVIRONMENTALLY STRESSED COMMUNITY" MEANS A MINORITY  
20 OR LOW-INCOME COMMUNITY THAT BEARS A DISPROPORTIONATE SHARE OF  
21 THE NEGATIVE ENVIRONMENTAL CONSEQUENCES RESULTING FROM  
22 INDUSTRIAL, MUNICIPAL, AND COMMERCIAL OPERATIONS OR THE EXECUTION  
23 OF FEDERAL, STATE, OR LOCAL PROGRAMS AND POLICIES, AS DETERMINED BY  
24 THE DEPARTMENT IN CONSULTATION WITH THE COMMISSION.

25 **1-702.**

26 ON OR BEFORE OCTOBER 1, 2010, THE DEPARTMENT, IN CONSULTATION  
27 WITH THE COMMISSION AND THE DEPARTMENT OF PLANNING, SHALL DEVELOP  
28 MAPS THAT IDENTIFY ENVIRONMENTALLY STRESSED COMMUNITIES IN THE  
29 STATE.

30 **1-703.**

31 (A) THE DEPARTMENT MAY NOT ISSUE OR RENEW THE FOLLOWING  
32 PERMITS UNTIL THE PERMIT APPLICANT CONDUCTS AN ENVIRONMENTAL  
33 JUSTICE REVIEW:

1           (1) AN AIR QUALITY CONTROL PERMIT TO CONSTRUCT ISSUED  
2 UNDER § 2-404 OF THIS ARTICLE;

3           (2) A PERMIT TO INSTALL, MATERIALLY ALTER, OR MATERIALLY  
4 EXTEND LANDFILL SYSTEMS, INCINERATORS FOR PUBLIC USE, OR RUBBLE  
5 LANDFILLS ISSUED UNDER § 9-209 OF THIS ARTICLE;

6           (3) A PERMIT TO DISCHARGE POLLUTANTS TO WATERS OF THE  
7 STATE ISSUED UNDER § 9-323 OF THIS ARTICLE;

8           (4) A PERMIT TO INSTALL, MATERIALLY ALTER, OR MATERIALLY  
9 EXTEND A STRUCTURE USED FOR STORAGE OR DISTRIBUTION OF ANY TYPE OF  
10 SEWAGE SLUDGE ISSUED, RENEWED, OR AMENDED UNDER § 9-234.1 OR § 9-238  
11 OF THIS ARTICLE;

12           (5) A PERMIT TO OWN, OPERATE, ESTABLISH, OR MAINTAIN A  
13 CONTROLLED HAZARDOUS SUBSTANCE FACILITY ISSUED UNDER § 7-232 OF  
14 THIS ARTICLE;

15           (6) A PERMIT TO OWN, OPERATE, OR MAINTAIN A HAZARDOUS  
16 MATERIAL FACILITY ISSUED UNDER § 7-103 OF THIS ARTICLE; AND

17           (7) A PERMIT TO OWN, OPERATE, ESTABLISH, OR MAINTAIN A  
18 LOW-LEVEL NUCLEAR WASTE FACILITY ISSUED UNDER § 7-233 OF THIS  
19 ARTICLE.

20           (B) THE DEPARTMENT SHALL DETERMINE, BASED ON THE FINDINGS IN  
21 THE ENVIRONMENTAL JUSTICE REVIEW, WHETHER THE PROPOSED ACTION  
22 WILL DISPROPORTIONATELY AFFECT ENVIRONMENTALLY STRESSED  
23 COMMUNITIES.

24           (C) IF THE DEPARTMENT DETERMINES THAT A PROPOSED ACTION WILL  
25 DISPROPORTIONATELY AFFECT AN ENVIRONMENTALLY STRESSED COMMUNITY,  
26 THE APPLICANT SHALL SUBMIT THE FOLLOWING TO THE DEPARTMENT BEFORE  
27 COMMENCING THE PROPOSED ACTION:

28           (1) A LIST OF MULTIPLE ALTERNATIVE LOCATIONS ON WHICH  
29 THE PROPOSED ACTION COULD OCCUR;

30           (2) A LIST OF MITIGATING ACTIONS THAT THE APPLICANT WILL  
31 CONDUCT TO OFFSET THE PROPOSED IMPACTS; AND

1           **(3) A LIST OF STRATEGIES AND ACTIONS THAT THE APPLICANT**  
2 **WILL CONDUCT TO EDUCATE AND INFORM MEMBERS OF THE**  
3 **ENVIRONMENTALLY STRESSED COMMUNITY OF THE PROPOSED ACTION.**

4           **(D) A PERSON THAT FAILS TO COMPLY WITH SUBSECTIONS (A) AND (C)**  
5 **OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS**  
6 **SUBJECT TO A FINE NOT EXCEEDING \$50,000 FOR EACH VIOLATION OR**  
7 **IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.**

8 **1-704.**

9           **THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS**  
10 **SUBTITLE.**

11 1-705.

12           (a) [In this section, “environmental justice” means equal protection from  
13 environmental and public health hazards for all people regardless of race, income,  
14 culture, and social status.

15           (b)] There is a Commission on Environmental Justice and Sustainable  
16 Communities.

17           **[(c)] (B)** The Commission consists of the following 15 members:

18           (1) One member of the Senate of Maryland, appointed by the  
19 President of the Senate;

20           (2) One member of the House of Delegates, appointed by the Speaker  
21 of the House;

22           (3) The Secretary, or the Secretary’s designee;

23           (4) The Secretary of Health and Mental Hygiene, or the Secretary’s  
24 designee;

25           (5) The Secretary of Planning, or the Secretary’s designee; and

26           (6) Ten members appointed by the Governor who represent the  
27 following interests:

28           (i) Affected communities concerned with environmental justice;

29           (ii) Business organizations;

30           (iii) Environmental organizations;

1 (iv) Health experts on environmental justice;

2 (v) Local government; and

3 (vi) The general public with interest or expertise in  
4 environmental justice.

5 [(d)] (C) (1) The term of a member appointed by the Governor is 3 years.

6 (2) At the end of a term, a member continues to serve until a successor  
7 is appointed and qualifies.

8 (3) A member who is appointed after a term has begun serves only for  
9 the rest of the term and until a successor is appointed and qualifies.

10 (4) A member may not be appointed to more than two consecutive  
11 terms.

12 [(e)] (D) The Governor shall designate the chairman of the Commission.

13 [(f)] (E) The Department shall provide staff for the Commission.

14 [(g)] (F) (1) The Commission shall meet at the times and places that the  
15 chairman determines.

16 (2) A majority of members of the Commission shall constitute a  
17 quorum for the transaction of business.

18 (3) A member of the Commission:

19 (i) May not receive compensation; but

20 (ii) Is entitled to reimbursement for expenses under the  
21 Standard State Travel Regulations, as provided in the State budget.

22 [(h)] (G) The Commission shall:

23 (1) Advise State government agencies on environmental justice and  
24 related community issues;

25 (2) Review and analyze the impact of current State laws and policies  
26 on the issue of environmental justice and sustainable communities;

27 (3) Assess the adequacy of State and local government laws to address  
28 the issue of environmental justice and sustainable communities;

1 (4) Coordinate with the Children's Environmental Health and  
2 Protection Advisory Council on recommendations related to environmental justice and  
3 sustainable communities;

4 (5) Develop criteria to assess whether communities in the State may  
5 be experiencing environmental justice issues; and

6 (6) Recommend options to the Governor for addressing issues,  
7 concerns, or problems related to environmental justice that surface after reviewing  
8 State laws and policies, including prioritizing areas of the State that need immediate  
9 attention.

10 [(i)] (H) On or before October 1 of each year, the Commission shall report  
11 its findings and recommendations to the Governor and, subject to § 2-1246 of the  
12 State Government Article, the General Assembly.

### 13 Article - Public Utility Companies

#### 14 11-101.1.

15 (A) **BEFORE THE CONSTRUCTION OF A NEW LIQUEFIED NATURAL GAS**  
16 **FACILITY OR THE EXPANSION OF AN EXISTING LIQUEFIED NATURAL GAS**  
17 **FACILITY, THE OWNER OF THE FACILITY SHALL CONDUCT AN ENVIRONMENTAL**  
18 **JUSTICE REVIEW IN ACCORDANCE WITH § 1-701(D) OF THE ENVIRONMENT**  
19 **ARTICLE.**

20 (B) **THE DEPARTMENT OF THE ENVIRONMENT SHALL DETERMINE,**  
21 **BASED ON THE FINDINGS IN THE ENVIRONMENTAL JUSTICE REVIEW, WHETHER**  
22 **THE CONSTRUCTION OF A NEW LIQUEFIED NATURAL GAS FACILITY OR THE**  
23 **EXPANSION OF AN EXISTING LIQUEFIED NATURAL GAS FACILITY WILL**  
24 **DISPROPORTIONATELY AFFECT AN ENVIRONMENTALLY STRESSED COMMUNITY.**

25 (C) **IF THE DEPARTMENT DETERMINES THAT CONSTRUCTION OF A NEW**  
26 **LIQUEFIED NATURAL GAS FACILITY OR THE EXPANSION OF AN EXISTING**  
27 **LIQUEFIED NATURAL GAS FACILITY WILL DISPROPORTIONATELY AFFECT AN**  
28 **ENVIRONMENTALLY STRESSED COMMUNITY, THE OWNER OF THE FACILITY**  
29 **SHALL SUBMIT THE FOLLOWING TO THE DEPARTMENT OF THE ENVIRONMENT**  
30 **BEFORE COMMENCING CONSTRUCTION OR EXPANSION:**

31 (1) **A LIST OF MULTIPLE ALTERNATIVE LOCATIONS ON WHICH**  
32 **THE CONSTRUCTION OR EXPANSION COULD OCCUR;**

33 (2) **A LIST OF MITIGATING ACTIONS TO OFFSET THE PROPOSED**  
34 **IMPACTS OF THE CONSTRUCTION OR EXPANSION; AND**

1           **(3) A LIST OF STRATEGIES AND ACTIONS TO EDUCATE AND**  
2 **INFORM MEMBERS OF THE ENVIRONMENTALLY STRESSED COMMUNITY OF THE**  
3 **CONSTRUCTION OR EXPANSION.**

4           **(D) A PERSON THAT FAILS TO COMPLY WITH THE REQUIREMENTS IN**  
5 **THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT**  
6 **TO A FINE NOT EXCEEDING \$50,000 FOR EACH VIOLATION OR IMPRISONMENT**  
7 **NOT EXCEEDING 2 YEARS OR BOTH.**

8           SECTION 3. AND BE IT FURTHER ENACTED, That the Commission on  
9 Environmental Justice and Sustainable Communities shall include in its annual  
10 report an update of the implementation of this Act, including any policy or legislative  
11 recommendations for the General Assembly's consideration.

12           SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2009.