

SENATE BILL 1117

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By: **Senator Conway**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 9, 2010

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Maryland Oil Disaster Containment, Clean-Up and**
3 **Contingency Fund and Oil Contaminated Site Environmental Cleanup Fund**

4 FOR the purpose of altering the basis for calculating a certain license fee credited to
5 the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund;
6 extending the deadline by which the owner of a certain eligible heating oil tank
7 may apply for reimbursement of certain costs from the Oil Contaminated Site
8 Environmental Cleanup Fund; authorizing, in a certain fiscal year, the
9 Secretary of the Environment to transfer up to a certain amount of money from
10 the Oil Contaminated Site Environmental Cleanup Fund to the Maryland Oil
11 Disaster Containment, Clean-Up and Contingency Fund; requiring the
12 Secretary to convene a certain work group for a certain purpose; requiring, by a
13 certain date, the Department of the Environment to report to certain
14 committees of the General Assembly; and generally relating to the Maryland Oil
15 Disaster Containment, Clean-Up and Contingency Fund and the Oil
16 Contaminated Site Environmental Cleanup Fund.

17 BY repealing and reenacting, with amendments,
18 Article – Environment
19 Section 4-411 and 4-705
20 Annotated Code of Maryland
21 (2007 Replacement Volume and 2009 Supplement)

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

24 **Article – Environment**

25 4-411.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) In this section the following words have the meanings indicated.

2 (2) "Barrel" means any measure of petroleum products or its
3 by-products which consists of 42.0 U.S. gallons of liquid measure.

4 (3) "Fund" means the Maryland Oil Disaster Containment, Clean-Up
5 and Contingency Fund.

6 (4) "Transfer" means the offloading or unloading of oil in the State
7 from or to any commercial vessel, barge, tank truck, tank car, pipeline, or any other
8 means used for transporting oil.

9 (b) A person other than a vessel or barge may not transfer oil in the State
10 without a license.

11 (c) (1) A license required under this section shall be secured from the
12 Department of the Environment subject to the terms and conditions set forth in this
13 section. The fee on any barrel shall be imposed only once, at the point of first transfer
14 in the State. The license fee shall be:

15 (i) Credited to the Maryland Oil Disaster Containment,
16 Clean-Up and Contingency Fund and based on:

17 1. Before [July 1, 2010] **JULY 1, 2013**, a [4] **5.75** cents
18 per barrel fee for oil transferred in the State; and

19 2. On or after [July 1, 2010] **JULY 1, 2013**, a [3] **4** cents
20 per barrel fee for oil transferred in the State; and

21 (ii) Until July 1, 2010, based on an additional 1.75 cents per
22 barrel fee for oil transferred in the State and credited to the Oil Contaminated Site
23 Environmental Cleanup Fund as described in Subtitle 7 of this title.

24 (2) The license fee shall be paid quarterly to the Department and on
25 receipt by the Comptroller, credited to the proper fund. The licensee shall certify to the
26 Department, on forms as may be prescribed by the Department, the number of barrels
27 of oil transferred by the licensee during the fee quarter no later than the last day of
28 the month following the fee quarter. These records shall be kept confidential by the
29 Department.

30 (3) When the balance in the Maryland Oil Disaster Containment,
31 Clean-Up and Contingency Fund from the monthly license fees paid under paragraph
32 (1)(i) of this subsection into the Fund equals or exceeds a maximum limit of
33 \$5,000,000, collection of subsequent monthly license fees under paragraph (1)(i) of this
34 subsection shall be abated until:

1 (i) The balance in the Fund from the license fees becomes less
2 than or equal to \$4,000,000; or

3 (ii) There is evidence that the balance in the Fund could be
4 significantly reduced by the recent occurrence of a major discharge or series of
5 discharges.

6 (4) If a licensee fails to remit the fee and accompanying certification
7 required by this section, the amount of the license fee due shall be determined by the
8 Department from information as may be available. Notice of this determination shall
9 be given to the licensee liable for payment of the license fee. The determination shall
10 finally and irrevocably fix the fee unless the licensee against whom it is assessed,
11 within 30 days after receiving notice of the determination, shall apply to the
12 Department for a hearing or unless the Department, on its own, shall redetermine the
13 fee.

14 (5) The Department shall promulgate rules and regulations, establish
15 audit procedures for the audit of licensees, and prescribe and publish forms as may be
16 necessary to effectuate the purposes of this section.

17 (d) As a condition precedent to the issuance or renewal of a license, the
18 Department shall require satisfactory evidence that the applicant has implemented or
19 is in the process of implementing State and federal plans and regulations to control
20 pollution related to oil, petroleum products, and their by-products and the abatement
21 thereof when a discharge occurs.

22 (e) Any person who violates subsection (b) or subsection (c) of this section is
23 guilty of a misdemeanor and upon conviction in a court of competent jurisdiction is
24 subject to a fine not exceeding \$10,000 plus any accrued but unpaid license fees.

25 (f) There is a Maryland Oil Disaster Containment, Clean-Up and
26 Contingency Fund for the Department to use to develop equipment, personnel, and
27 plans; for contingency actions to respond to, contain, clean-up, and remove from the
28 land and waters of the State discharges of oil, petroleum products, and their
29 by-products into, upon, or adjacent to the waters of the State; and restore natural
30 resources damaged by discharges. The cost of containment, clean-up, removal, and
31 restoration, including attorneys' fees and litigation costs, shall be reimbursed to the
32 State by the person responsible for the discharge. The reimbursement shall be credited
33 to the Fund. The Fund shall be limited in accordance with the limits set forth in this
34 section. To this sum shall be credited every license fee, fine, if imposed by the circuit
35 court for any county, and any other charge related to this subtitle. To this Fund shall
36 be charged every expense the Department of the Environment has which relates to
37 this section.

38 (g) Money in the Fund not needed currently to meet the Department of the
39 Environment's obligations in the exercise of its responsibility under this section shall
40 be deposited with the State Treasurer to the credit of the Fund, and may be invested
41 as provided by law. Interest received on the investment shall be credited to the Fund.

1 The Secretary of the Environment shall determine the proper allocation of the moneys
2 credited to the Fund only for the following purposes:

3 (1) Administrative expenses, personnel expenses, and equipment costs
4 of the Department related to the purposes of this section.

5 (2) Prevention, control, containment, clean-up, and removal of
6 discharges into, upon, or adjacent to waters of the State of discharges of oil, petroleum
7 products and their by-products, and the restoration of natural resources damaged by
8 such discharges.

9 (3) Development of containment and clean-up equipment, plans, and
10 procedures in accordance with the purposes of this section.

11 (4) Paying insurance costs by the State to extend or implement the
12 benefits of the Fund.

13 (h) The Department shall provide the standing committees of the Maryland
14 General Assembly with primary jurisdiction over this section with a status report on
15 the Fund on or before October 1 of each year. The report shall include an accounting of
16 all moneys expended for each of the purposes specified in subsection (g) of this section.

17 4-705.

18 (a) The owner or operator of an underground oil storage tank eligible under §
19 4-704(b)(1)(ii) of this subtitle may apply to the Fund for reimbursement, until
20 December 31, 2007, for usual, customary, and reasonable costs incurred on or after
21 October 1, 2000 in performing site rehabilitation.

22 (b) The owner of a heating oil tank eligible under § 4-704(b)(1)(iii) of this
23 subtitle may apply to the Fund no later than 6 months after rehabilitation completion
24 for reimbursement, until [June 30, 2010] **JUNE 30, 2013**, for usual, customary, and
25 reasonable costs incurred on or after October 1, 2000 in performing site rehabilitation.

26 (c) (1) Any reimbursement from the Fund for applications approved on or
27 after July 1, 1996 is subject to:

28 (i) For owners or operators of six tanks or fewer, a deductible of
29 \$7,500;

30 (ii) For owners or operators of more than 6 but not more than 15
31 tanks, a deductible of \$10,000;

32 (iii) For owners or operators of more than 15 but not more than
33 30 tanks, a deductible of \$15,000;

1 (iv) For owners or operators of more than 30 tanks, a deductible
2 of \$20,000; and

3 (v) For residential owners of heating oil tanks, a deductible of
4 \$500; and

5 (2) The maximum amount to be reimbursed from the Fund shall be:

6 (i) \$125,000 for underground oil storage tanks per occurrence;
7 and

8 (ii) \$20,000 for heating oil tanks per occurrence.

9 (d) To be eligible for reimbursement from the Fund, an owner or operator
10 shall:

11 (1) Certify that the discharge is not the result of a willful or deliberate
12 act;

13 (2) Submit a corrective action plan, schedule, and cost estimate to the
14 Department that shall include provisions for the environmentally sound treatment or
15 disposal of contaminated soils that meet all federal and State requirements and
16 standards; and

17 (3) Except for heating oil tanks, certify that the discharge is from a
18 tank registered under § 4-411.1 of this title.

19 (e) If the owner or operator knowingly submits a false certification under
20 subsection (e) of this section, that owner or operator is not eligible for reimbursement
21 under this subtitle.

22 (f) Only expenses that are cost-effective, reasonable, and consistent with a
23 corrective action plan approved by the Department may be eligible for reimbursement
24 from the Fund.

25 (g) The cost for replacement or retrofitting of underground oil storage tanks
26 or heating oil tanks and associated piping is not eligible for reimbursement, and the
27 Department may not incur these costs or expend moneys from the Fund for these
28 purposes.

29 SECTION 2. AND BE IT FURTHER ENACTED, That in fiscal year 2011, the
30 Secretary of the Environment may transfer up to a maximum \$500,000 from the Oil
31 Contaminated Site Environmental Cleanup Fund, established under § 4-704 of the
32 Environment Article, to the Maryland Oil Disaster Containment, Clean-Up and
33 Contingency Fund, established under § 4-411 of the Environment Article.

34 SECTION 3. AND BE IT FURTHER ENACTED, That:

1 (a) The Secretary of the Environment shall convene a work group consisting
2 of representatives of the various sectors of the petroleum marketing industry and
3 representatives from appropriate public and private entities to review and assess the
4 long-term funding needs of the oil pollution programs in the State.

5 (b) On or before December 31, 2012, in accordance with § 2-1246 of the State
6 Government Article, the Department of the Environment shall report the findings and
7 recommendations of the work group to the Legislative Policy Committee, the House
8 Environmental Matters Committee, and the Senate Finance Committee and
9 Education, Health, and Environmental Affairs Committee.

10 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 July 1, 2010.