

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

Re-referred to: Judicial Proceedings, March 12, 2010

Reassigned to: Education, Health, and Environmental Affairs, March 17, 2010

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 4, 2010

CHAPTER _____

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

18 BY repealing and reenacting, with amendments,
19 Article – Environment
20 Section 4-411 and 4-705

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 Annotated Code of Maryland
2 (2007 Replacement Volume and 2009 Supplement)

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

5 **Article – Environment**

6 4–411.

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

8 (2) “Barrel” means any measure of petroleum products or its
9 by-products which consists of 42.0 U.S. gallons of liquid measure.

10 (3) “Fund” means the Maryland Oil Disaster Containment, Clean-Up
11 and Contingency Fund.

12 (4) “Transfer” means the offloading or unloading of oil in the State
13 from or to any commercial vessel, barge, tank truck, tank car, pipeline, or any other
14 means used for transporting oil.

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

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

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

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

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

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

30 (2) The license fee shall be paid quarterly to the Department and on
31 receipt by the Comptroller, credited to the proper fund. The licensee shall certify to the
32 Department, on forms as may be prescribed by the Department, the number of barrels
33 of oil transferred by the licensee during the fee quarter no later than the last day of

1 the month following the fee quarter. These records shall be kept confidential by the
2 Department.

3 (3) When the balance in the Maryland Oil Disaster Containment,
4 Clean-Up and Contingency Fund from the monthly license fees paid under paragraph
5 (1)(i) of this subsection into the Fund equals or exceeds a maximum limit of
6 \$5,000,000, collection of subsequent monthly license fees under paragraph (1)(i) of this
7 subsection shall be abated until:

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

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

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

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

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

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

32 (f) There is a Maryland Oil Disaster Containment, Clean-Up and
33 Contingency Fund for the Department to use to develop equipment, personnel, and
34 plans; for contingency actions to respond to, contain, clean-up, and remove from the
35 land and waters of the State discharges of oil, petroleum products, and their
36 by-products into, upon, or adjacent to the waters of the State; and restore natural
37 resources damaged by discharges. **THE FUND MAY ALSO BE USED BY THE**
38 **DEPARTMENT FOR OIL-RELATED ACTIVITIES IN WATER POLLUTION CONTROL**
39 **PROGRAMS.** The cost of containment, clean-up, removal, and restoration, including

1 attorneys' fees and litigation costs, shall be reimbursed to the State by the person
2 responsible for the discharge. The reimbursement shall be credited to the Fund. The
3 Fund shall be limited in accordance with the limits set forth in this section. To this
4 sum shall be credited every license fee, fine, if imposed by the circuit court for any
5 county, and any other charge related to this subtitle. To this Fund shall be charged
6 every expense the Department of the Environment has which relates to this section.

7 (g) Money in the Fund not needed currently to meet the Department of the
8 Environment's obligations in the exercise of its responsibility under this section shall
9 be deposited with the State Treasurer to the credit of the Fund, and may be invested
10 as provided by law. Interest received on the investment shall be credited to the Fund.
11 The Secretary of the Environment shall determine the proper allocation of the moneys
12 credited to the Fund only for the following purposes:

13 (1) Administrative expenses, personnel expenses, and equipment costs
14 of the Department related to the purposes of this section;

15 (2) Prevention, control, containment, clean-up, and removal of
16 discharges into, upon, or adjacent to waters of the State of discharges of oil, petroleum
17 products and their by-products, and the restoration of natural resources damaged by
18 such discharges;

19 (3) Development of containment and clean-up equipment, plans, and
20 procedures in accordance with the purposes of this section;

21 (4) Paying insurance costs by the State to extend or implement the
22 benefits of the Fund; AND

23 **(5) EXPENSES RELATED TO OIL-RELATED ACTIVITIES IN THE**
24 **DEPARTMENT'S WATER POLLUTION CONTROL PROGRAMS.**

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

29 4-705.

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

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

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

3 (i) For owners or operators of six tanks or fewer, a deductible of
4 \$7,500;

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

7 (iii) For owners or operators of more than 15 but not more than
8 30 tanks, a deductible of \$15,000;

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

11 (v) For residential owners of heating oil tanks, a deductible of
12 \$500; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.