

# HOUSE BILL 186

M3

EMERGENCY BILL  
**ENROLLED BILL**

(2lr0065)

— *Environmental Matters/Education, Health, and Environmental Affairs* —

Introduced by **Chair, Environmental Matters Committee (By Request –  
Departmental – Environment)**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Department of the Environment – Permit Proceedings – Judicial Review**

3 FOR the purpose of clarifying the right of parties to appeal to the Court of Special  
4 Appeals a decision by a circuit court regarding certain final permit  
5 determinations by the Department of the Environment; providing for the  
6 application of this Act; making this Act an emergency measure; and generally  
7 relating to judicial review of certain final permit determinations by the  
8 Department of the Environment.

9 BY repealing and reenacting, with amendments,  
10 Article – Environment  
11 Section 1–601 and 5–204(i)  
12 Annotated Code of Maryland  
13 (2007 Replacement Volume and 2011 Supplement)

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**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.

*Italics* indicate opposite chamber/conference committee amendments.



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

3 **Article – Environment**

4 1–601.

5 (a) Permits issued by the Department under the following sections shall be  
6 issued in accordance with this subtitle:

7 (1) Air quality control permits to construct subject to § 2–404 of this  
8 article;

9 (2) Permits to install, materially alter or materially extend landfill  
10 systems, incinerators for public use or rubble landfills subject to § 9–209 of this article;

11 (3) Permits to discharge pollutants to waters of the State issued  
12 pursuant to § 9–323 of this article;

13 (4) Permits to install, materially alter or materially extend a structure  
14 used for storage or distribution of any type of sewage sludge issued, renewed, or  
15 amended pursuant to § 9–234.1 or § 9–238 of this article;

16 (5) Permits to own, operate, establish or maintain a controlled  
17 hazardous substance facility issued pursuant to § 7–232 of this article;

18 (6) Permits to own, operate, or maintain a hazardous material facility  
19 issued pursuant to § 7–103 of this article; and

20 (7) Permits to own, operate, establish or maintain a low–level nuclear  
21 waste facility issued pursuant to § 7–233 of this article.

22 (b) For permits listed under subsection (a) of this section, a contested case  
23 hearing may not occur.

24 (c) A final determination by the Department on the issuance, denial,  
25 renewal, or revision of any permit listed under subsection (a) of this section is subject  
26 to judicial review at the request of any person that:

27 (1) Meets the threshold standing requirements under federal law; and

28 (2) (i) Is the applicant; or

29 (ii) Participated in a public participation process through the  
30 submission of written or oral comments, unless an opportunity for public participation  
31 was not provided.

1 (d) (1) Judicial review shall be on the administrative record before the  
2 Department and limited to objections raised during the public comment period, unless  
3 the petitioner demonstrates that:

4 (i) The objections were not reasonably ascertainable during the  
5 comment period; or

6 (ii) Grounds for the objections arose after the comment period.

7 (2) The court shall remand the matter to the Department for  
8 consideration of objections under paragraph (1) of this subsection.

9 (e) (1) Unless otherwise required by statute, a petition for judicial review  
10 by a person that meets the requirements of subsection (c) of this section shall be filed  
11 with the circuit court for the county where the application for the permit states that  
12 the proposed activity will occur.

13 (2) **THE DECISION OF THE CIRCUIT COURT MAY BE APPEALED TO**  
14 **THE COURT OF SPECIAL APPEALS.**

15 (f) (1) When this article requires more than one public informational  
16 meeting or public hearing, the Department may consolidate some or all of the  
17 meetings or hearings for the proposed facility with similar meetings or hearings.

18 (2) The Department shall hold public informational meetings and  
19 public hearings at a location in the political subdivision and in close proximity to the  
20 location where the individual permit applies.

21 5-204.

22 (i) (1) Unless otherwise required by statute, a petition for judicial review  
23 by a person who meets the requirements of subsection (f) of this section shall be filed  
24 with the circuit court for the county where the application for the permit states that  
25 the proposed activity will occur.

26 (2) [A petition for judicial] **JUDICIAL** review [filed] under this section  
27 shall be [filed] **CONDUCTED** in accordance with Title 1, Subtitle 6 of this article.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
29 construed to apply retroactively ~~and shall be applied to and interpreted to affect~~ all  
30 appeals of final permit decisions subject to Title 1, Subtitle 6 of the Environment  
31 Article ~~that are pending in a circuit court on the effective date of this Act.~~

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency  
33 measure, is necessary for the immediate preservation of the public health or safety,

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1 has been passed by a yea and nay vote supported by three-fifths of all the members  
2 elected to each of the two Houses of the General Assembly, and shall take effect from  
3 the date it is enacted.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.