

# HOUSE BILL 907

Q7, M3, M1

2lr2542

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By: **Delegates McIntosh and Hixson**

Introduced and read first time: February 10, 2012

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Natural Gas Production – Severance Tax**

3 FOR the purpose of requiring the Department of the Environment to establish a  
4 separate account within the Oil and Gas Fund for certain purposes; authorizing  
5 the Department to recover certain costs in a civil action; imposing a certain tax  
6 on the removal of natural gas from certain wells in the State; providing for the  
7 calculation of the tax; setting the rate of the tax; requiring certain persons  
8 subject to the tax to keep certain records and to submit certain reports to the  
9 Department in a certain manner; providing for the collection of the tax by the  
10 Department; requiring revenue from the tax to be deposited into a certain  
11 separate account within the Fund; altering certain definitions; defining certain  
12 terms; and generally relating to the natural gas severance tax.

13 BY repealing and reenacting, with amendments,  
14 Article – Environment  
15 Section 14–102, 14–122, and 14–123  
16 Annotated Code of Maryland  
17 (2007 Replacement Volume and 2011 Supplement)

18 BY adding to  
19 Article – Environment  
20 Section 14–1A–01 through 14–1A–04 to be under the new subtitle “Subtitle 1A.  
21 Natural Gas Severance Tax”  
22 Annotated Code of Maryland  
23 (2007 Replacement Volume and 2011 Supplement)

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

26 **Article – Environment**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 14-102.

2 (a) In this subtitle the following words have the meanings indicated.

3 (b) "Coalbed methane" means methane and any other gaseous substance  
4 occurring in or produced from a coal seam or related, associated, or adjacent rock  
5 materials.

6 (c) "County" includes Baltimore City unless otherwise indicated.

7 (d) "Department" means the Department of the Environment.

8 (e) "Field" means the general area underlaid by one or more pools.

9 (f) "Fund" means the Oil and Gas Fund.

10 (g) "Gas" means all natural gas, **NATURAL GAS LIQUIDS**, and other fluid  
11 hydrocarbons, not defined as oil, which are produced from a natural reservoir.

12 **(G-1) (1) "GAS INTEREST" MEANS THE RIGHT TO EXPLORE FOR GAS ON,**  
13 **OR PRODUCE GAS FROM, REAL PROPERTY.**

14 **(2) "GAS INTEREST" DOES NOT INCLUDE A FEE SIMPLE INTEREST**  
15 **IN THE SURFACE RIGHTS OF REAL PROPERTY REGARDLESS OF WHETHER THE**  
16 **FEE INTEREST INCLUDES THE MINERAL RIGHTS.**

17 **(G-2) "NATURAL GAS LIQUIDS" MEANS COMPONENTS OF NATURAL GAS**  
18 **THAT ARE LIQUID AT THE SURFACE IN THE FIELD FACILITIES OR**  
19 **GAS-PROCESSING PLANTS.**

20 (h) "Oil" means crude petroleum oil and other hydrocarbons, regardless of  
21 gravity, which are produced at the wellhead in liquid form, except **NATURAL GAS**  
22 **LIQUIDS OR** liquid hydrocarbons known as distillate or condensate recovered or  
23 extracted from gas.

24 (i) "Owner" means the person who has the right to drill into and produce  
25 from a pool, or to store in a pool, and appropriate the oil or gas the person produces or  
26 stores either for the person or others.

27 (j) "Person" means [any individual, corporation, association, partnership,  
28 receiver, trustee, executor, administrator, guardian, fiduciary, or other representative  
29 of any kind]:

(1) THE FEDERAL GOVERNMENT, THE STATE, A COUNTY, A MUNICIPAL CORPORATION, OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE, OR ANY OF THEIR UNITS;

(2) AN INDIVIDUAL, A RECEIVER, A TRUSTEE, A GUARDIAN, AN EXECUTOR, AN ADMINISTRATOR, A FIDUCIARY, OR A REPRESENTATIVE OF ANY KIND; OR

(3) A PARTNERSHIP, A FIRM, AN ASSOCIATION, A PUBLIC OR PRIVATE CORPORATION, OR ANY OTHER ENTITY.

(k) “Pool” means an underground reservoir containing a common accumulation of oil, gas, or both.

(l) “Producer” means the owner of a well capable of producing oil, gas, or both.

(m) “Product” means any commodity produced in its natural state by an oil or gas well.

(n) (1) “Production” means the act or process of producing oil or gas from a natural reservoir.

(2) “Production” does not include the sale or distribution of oil or gas.

(o) (1) “Underground storage” means the storing of gas or oil in a geological stratum beneath the surface of the earth.

(2) “Underground storage” includes the injection of gas or oil into and withdrawal from an underground storage reservoir and any other operation necessary for or convenient to the storage of gas or of oil.

(p) “Underground storage reservoir” means the stratum and subsurface area that are used or are to be used for or in connection with the underground storage of gas or of oil.

14–122.

(a) There is an Oil and Gas Fund.

(b) The Fund consists of:

(1) Fees collected by the Department under § 14–105 of this subtitle;

(2) Funds appropriated by the General Assembly for deposit to the Fund;

(3) Fines and bond forfeitures collected by the Department in accordance with this subtitle that exceed the amount necessary to restore a site; [and]

**(4) MONEY DEPOSITED TO THE FUND UNDER SUBTITLE 1A OF THIS TITLE; AND**

**[(4)] (5)** Any additional money made available from any sources, public or private, for the purposes for which the Fund has been established.

(c) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) Notwithstanding any law to the contrary, unused money in the Fund may not revert to the General Fund.

(d) The Fund shall be maintained and administered by the Department in accordance with the provisions of this subtitle and any regulations the Department adopts.

**(E) WITH REGARD TO MONEY RECEIVED UNDER SUBTITLE 1A OF THIS TITLE, THE DEPARTMENT SHALL ESTABLISH A SEPARATE ACCOUNT WITHIN THE FUND FOR THE PURPOSES STATED IN § 14–123(B) OF THIS SUBTITLE.**

14–123.

**(A) [The] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE** Department shall use money in the Fund solely to administer and implement programs to oversee the drilling, development, production, and storage of oil and gas wells, and other requirements related to the drilling of oil and gas wells, including all costs incurred by the State to:

(1) Review, inspect, and evaluate monitoring data, applications, licenses, permits, analyses, and reports;

(2) Perform and oversee assessments, investigations, and research, **INCLUDING THE STUDY REQUIRED UNDER EXECUTIVE ORDER 01.01.2011.11 ISSUED ON JUNE 6, 2011, BY THE GOVERNOR;**

(3) Conduct permitting, inspection, and compliance activities; and

(4) Develop, adopt, and implement regulations, programs, or initiatives to address risks to public safety, human health, and the environment related to the drilling and development of oil and gas wells, including the method of hydrofracturing.

1           **(B) (1) ANY MONEY DEPOSITED TO THE FUND UNDER SUBTITLE 1A**  
2 **OF THIS TITLE SHALL BE USED BY THE DEPARTMENT TO:**

3                   **(I) AFTER THE COMPLETION OF THE STUDY REQUIRED**  
4 **UNDER EXECUTIVE ORDER 01.01.2011.11 ISSUED ON JUNE 6, 2011, BY THE**  
5 **GOVERNOR, MONITOR IMPACTS OF GAS EXPLORATION AND PRODUCTION:**

6                           **1. THAT ARE REGIONAL; AND**  
7                           **2. THAT ARE LOCATED IN AREAS OF THE STATE**  
8 **WHERE GAS IS PRODUCED;**

9                           **(II) REMEDIATE NEGATIVE ENVIRONMENTAL OR**  
10 **ECOLOGICAL IMPACTS THAT OCCUR REGIONALLY IN AREAS OF THE STATE**  
11 **WHERE GAS IS PRODUCED THAT:**

12                           **1. REQUIRE IMMEDIATE ACTION TO PROTECT**  
13 **PUBLIC HEALTH OR SAFETY, THE ENVIRONMENT, OR NATURAL RESOURCES; OR**

14                           **2. ARE NOT CORRECTED IN ACCORDANCE WITH THIS**  
15 **SUBTITLE OR ANY RULE, REGULATION, PERMIT, OR ORDER ISSUED UNDER THIS**  
16 **SUBTITLE; AND**

17                           **(III) PROVIDE THE NECESSARY FUNDING TO ANY OTHER**  
18 **STATE AGENCY FOR THE PURPOSES SET FORTH IN ITEMS (I) AND (II) OF THIS**  
19 **PARAGRAPH.**

20                   **(2) THE DEPARTMENT MAY RECOVER COSTS FROM A PERSON**  
21 **THAT IS RESPONSIBLE FOR CORRECTING ANY NEGATIVE IMPACT FROM GAS**  
22 **EXPLORATION AND PRODUCTION IN THE STATE IN A CIVIL ACTION.**

23                   **SUBTITLE 1A. NATURAL GAS SEVERANCE TAX.**

24 **14-1A-01.**

25           **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
26 **INDICATED.**

27           **(B) “GAS”, “PERSON”, “PRODUCER”, AND “PRODUCTION” HAVE THE**  
28 **MEANINGS STATED IN § 14-102 OF THIS TITLE.**

1           **(C) “PERMIT HOLDER” MEANS A PERSON THAT HOLDS A PERMIT**  
2 **ISSUED UNDER § 14-104 OF THIS TITLE FOR GAS EXPLORATION OR**  
3 **PRODUCTION.**

4 **14-1A-02.**

5           **(A) SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, A**  
6 **NATURAL GAS SEVERANCE TAX IS IMPOSED ON THE WHOLESALE MARKET VALUE**  
7 **OF GAS TAKEN FROM A GAS WELL LOCATED IN THE STATE.**

8           **(B) THE NATURAL GAS SEVERANCE TAX RATE IS 15% OF THE**  
9 **WHOLESALE MARKET VALUE ON THE DATE THE GAS IS PRODUCED AT THE WELL**  
10 **HEAD.**

11           **(C) THE NATURAL GAS SEVERANCE TAX APPLIES TO GAS PRODUCED**  
12 **FROM A GAS WELL LOCATED IN THE STATE ON OR AFTER JANUARY 1, 2013.**

13           **(D) THE NATURAL GAS SEVERANCE TAX DOES NOT APPLY TO:**

14                   **(1) A WELL THAT PRODUCES GAS THAT IS USED FOR DOMESTIC**  
15 **OR AGRICULTURAL PURPOSES ON THE REAL PROPERTY FROM WHICH THE GAS**  
16 **IS PRODUCED;**

17                   **(2) A WELL THAT PRODUCES NOT MORE THAN 5,000 CUBIC FEET**  
18 **OF GAS PER DAY; OR**

19                   **(3) GAS THAT IS WITHDRAWN FROM A STORAGE WELL.**

20           **(E) THE NATURAL GAS SEVERANCE TAX IS IN ADDITION TO ANY OTHER**  
21 **TAX IMPOSED ON THE PRODUCTION OF GAS, INCLUDING A TAX IMPOSED BY A**  
22 **COUNTY OR MUNICIPAL CORPORATION.**

23 **14-1A-03.**

24           **A PERMIT HOLDER OR PRODUCER THAT HAS A WELL SUBJECT TO THE**  
25 **NATURAL GAS SEVERANCE TAX SHALL:**

26                   **(1) KEEP COMPLETE AND ACCURATE RECORDS IN THE FORM AND**  
27 **WITH THE INFORMATION THAT THE DEPARTMENT REQUIRES BY REGULATION;**

28                   **(2) SUBMIT QUARTERLY TO THE DEPARTMENT, ON A FORM**  
29 **PROVIDED BY THE DEPARTMENT, A REPORT ON THE TOTAL GROSS AMOUNT OF**

1 GAS PRODUCED FROM A WELL PER MONTH, REGARDLESS OF THE STATUS OF  
2 THE WELL.

3 14-1A-04.

4 (A) A PERMIT HOLDER OR PRODUCER THAT HAS A WELL SUBJECT TO  
5 THE NATURAL GAS SEVERANCE TAX SHALL PAY TO THE DEPARTMENT THE TAX  
6 WITH THE REPORT REQUIRED UNDER § 14-1A-03 OF THIS SUBTITLE.

7 (B) THE DEPARTMENT SHALL DEPOSIT THE MONEY FROM THE  
8 NATURAL GAS SEVERANCE TAX COLLECTED UNDER THIS SECTION IN A  
9 SEPARATE ACCOUNT WITHIN THE OIL AND GAS FUND ESTABLISHED IN § 14-122  
10 OF THIS TITLE.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 June 1, 2012.