

SENATE BILL 563

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3lr2479
CF HB 554

By: **Senator Simonaire**

Introduced and read first time: February 1, 2013

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Permit Applications – Notice – Neighboring Jurisdictions**

3 FOR the purpose of requiring the Department of the Environment, on receipt of a
4 certain permit application, to give notice immediately or require the applicant
5 to give notice immediately of the application by certified mail to the governing
6 bodies of certain counties and municipal corporations and to certain members of
7 the General Assembly; requiring an applicant for a certain incinerator or
8 landfill system to give notice by certified mail of the application, informational
9 meeting, and hearings to the governing bodies of certain counties and municipal
10 corporations and to certain members of the General Assembly; and generally
11 relating to notice requirements for environmental permit applications.

12 BY repealing and reenacting, without amendments,
13 Article – Environment
14 Section 1–602
15 Annotated Code of Maryland
16 (2007 Replacement Volume and 2012 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Environment
19 Section 2–404 and 9–209
20 Annotated Code of Maryland
21 (2007 Replacement Volume and 2012 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 1–602.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) Wherever this subtitle requires the Department to publish notice:

2 (1) Notice shall be published at least once a week for 2 consecutive
3 weeks in a daily or weekly newspaper of general circulation in the geographical area
4 in which the proposed facility is located;

5 (2) The Department may require notice of an informational meeting or
6 a public hearing by mail to each person requesting the meeting or hearing or to their
7 authorized representatives;

8 (3) The Department may provide additional notice by requiring the
9 notice to be posted at the proposed facility or at public facilities in the geographical
10 area of the proposed facility; and

11 (4) The applicant shall bear all costs incurred by the Department in
12 providing notice.

13 (b) (1) In addition to the requirements set forth in subsection (a) of this
14 section and notwithstanding any other requirements in this article, wherever this
15 subtitle requires the Department to publish notice of an application for a permit, the
16 Department shall:

17 (i) Electronically post the notice of an application for a permit
18 on the Department's website; and

19 (ii) Provide a method for interested persons to electronically
20 request any additional notices related to an application for a permit.

21 (2) The notice required under paragraph (1) of this subsection shall
22 include:

23 (i) The name and address of the applicant;

24 (ii) A description of the location and the nature of the activity
25 for which the permit has been sought;

26 (iii) A reference to the applicable statutes or regulations
27 governing the application process;

28 (iv) The time and place of any scheduled informational meeting
29 or public hearing, or a description of where this information can be found;

30 (v) A description of where further information about the permit
31 application can be found; and

32 (vi) Any other information that the Department determines is
33 necessary.

1 (c) The Department may require the applicant to publish and send the
2 notices required in subsection (a) of this section.

3 2-404.

4 (a) This section applies to the following activities:

5 (1) Construction of a new source;

6 (2) Replacement of components of an existing permitted source, if the
7 fixed capital cost of the replacement components exceeds one-half of the fixed capital
8 cost that would be required to construct a new source comparable in process to the
9 existing source; and

10 (3) Modification of an existing permitted source by making a physical
11 or operational change to the source that will result in a significant net increase in
12 emissions of any pollutant from that source.

13 (b) (1) Before accepting an application for a permit subject to subsection
14 (c) of this section, the Department shall require the applicant to submit
15 documentation:

16 (i) That demonstrates that the proposal has been approved by
17 the local jurisdiction for all zoning and land use requirements; or

18 (ii) That the source meets all applicable zoning and land use
19 requirements.

20 (2) Paragraph (1) of this subsection does not apply to any application
21 for a permit to construct at an existing source unless the existing source is a
22 nonconforming use.

23 (c) The Department shall comply with the provisions in subsection (d) of this
24 section before issuing a permit for the activities listed in subsection (a) of this section
25 at:

26 (1) Any source which is required to obtain a permit to operate under
27 regulations adopted under this subtitle;

28 (2) Any source which is subject to federal standards under 40 C.F.R.
29 Part 60 (New Source Performance Standards), 40 C.F.R. Part 61 (National Emission
30 Standards for Hazardous Air Pollutants), or 40 C.F.R. 52.21 (Prevention of Significant
31 Deterioration); or

1 (3) Any source that will, after control, discharge 25 tons or more per
2 year of a pollutant regulated under this title in the areas of Baltimore City designated
3 by the United States Post Office as zip code numbers 21225, 21226, and 21230.

4 (d) **(1) ON RECEIPT OF AN APPLICATION FOR A PERMIT SUBJECT TO**
5 **SUBSECTION (C) OF THIS SECTION, THE DEPARTMENT SHALL GIVE NOTICE**
6 **IMMEDIATELY OR REQUIRE THE APPLICANT TO GIVE NOTICE IMMEDIATELY OF**
7 **THE APPLICATION BY CERTIFIED MAIL TO:**

8 **(I) THE GOVERNING BODY OF EACH COUNTY OR**
9 **MUNICIPAL CORPORATION IN WHICH ANY PORTION OF THE SOURCE IS LOCATED**
10 **OR IS PROPOSED TO BE LOCATED;**

11 **(II) THE GOVERNING BODY OF EACH COUNTY OR**
12 **MUNICIPAL CORPORATION WITHIN ONE MILE OF THE PROPERTY LINE OF THE**
13 **SOURCE OR THE PROPOSED LOCATION OF THE SOURCE;**

14 **(III) EACH MEMBER OF THE GENERAL ASSEMBLY**
15 **REPRESENTING ANY PART OF A COUNTY IN WHICH ANY PORTION OF THE**
16 **SOURCE IS LOCATED OR PROPOSED TO BE LOCATED; AND**

17 **(IV) EACH MEMBER OF THE GENERAL ASSEMBLY**
18 **REPRESENTING ANY PART OF EACH COUNTY WITHIN ONE MILE OF THE**
19 **PROPERTY LINE OF THE SOURCE OR THE PROPOSED LOCATION OF THE SOURCE.**

20 **[(1)] (2) [Before] IN ADDITION TO THE REQUIREMENTS UNDER**
21 **PARAGRAPH (1) OF THIS SUBSECTION, BEFORE** issuing a permit subject to
22 subsection (c) of this section, the Department shall:

23 (i) Comply with the provisions of Title 1, Subtitle 6 of this
24 article; and

25 (ii) Conduct any public hearing required by Title 1, Subtitle 6 of
26 this article in the county in which the proposed source is located.

27 **[(2)] (3)** In addition to the requirements under **[paragraph (1)]**
28 **PARAGRAPHS (1) AND (2)** of this subsection, before issuing a permit to construct a
29 source described in subsection (c)(3) of this section, the Department shall require at
30 the expense of the applicant the preparation of an ambient air quality impact analysis
31 regarding the proposed construction.

32 (e) The provisions of this section do not apply to any permit to construct
33 control equipment on an existing source or to any permit to operate.

1 (a) The applicant shall give notice of the application, the informational
2 meeting, and hearings:

3 (1) To the public in compliance with Title 1, Subtitle 6 of this article;

4 (2) **[To] BY CERTIFIED MAIL TO** the board of county commissioners
5 or the county council of any county and the chief executive of any county or municipal
6 corporation that the Department determines may be affected by the incinerator for
7 public use or landfill system, **[by certified mail] INCLUDING ANY COUNTY OR**
8 **MUNICIPAL CORPORATION WITHIN ONE MILE OF THE PROPERTY LINE OF THE**
9 **PROPOSED INCINERATOR FOR PUBLIC USE OR LANDFILL SYSTEM;**

10 (3) To the Department of Natural Resources, by certified mail;

11 (4) **[To] BY CERTIFIED MAIL TO** each member of the General
12 Assembly representing any part of **[a]:**

13 **(I) A county in which the landfill system or incinerator FOR**
14 **PUBLIC USE is located[, by certified mail]; OR**

15 **(II) A COUNTY WITHIN 1 MILE OF THE PROPERTY LINE OF**
16 **THE PROPOSED LANDFILL SYSTEM OR INCINERATOR FOR PUBLIC USE;**

17 (5) To record owners of real property within 1,000 feet of the property
18 line of the proposed incinerator for public use or landfill system, by certified mail to
19 the addresses of record owners as indicated in the records of the State Department of
20 Assessments and Taxation; and

21 (6) By posting a notice of the application, the informational meeting,
22 and hearings in a conspicuous space on the site of the proposed incinerator for public
23 use or landfill system.

24 (b) The local officials notified under subsection (a)(2) of this section shall give
25 notice of the application, the informational meeting, and hearings to all interested
26 agencies of their respective jurisdictions.

27 (c) To the extent practicable, the Department and other units of the State
28 government shall consolidate the informational meeting and hearings concerning
29 permits for the same landfill system or incinerator for public use.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2013.