

HOUSE BILL 874

M1, R2
HB 238/15 – ENV

7lr3275

By: **Delegates Cassilly and Szeliga**

Introduced and read first time: February 6, 2017

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Air Navigation Protection From Hazards Act of 2017**

3 FOR the purpose of creating an exemption under the Forest Conservation Act for the
4 cutting or clearing of trees to comply with a certain provision of law, under certain
5 circumstances; and generally relating to the applicability of the Forest Conservation
6 Act.

7 BY repealing and reenacting, with amendments,
8 Article – Natural Resources
9 Section 5–1602
10 Annotated Code of Maryland
11 (2012 Replacement Volume and 2016 Supplement)

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

14 **Article – Natural Resources**

15 5–1602.

16 (a) Except as provided in subsection (b) of this section, this subtitle shall apply to
17 any public or private subdivision plan or application for a grading or sediment control
18 permit by any person, including a unit of State or local government on areas 40,000 square
19 feet or greater.

20 (b) The provisions of this subtitle do not apply to:

21 (1) Any construction activity that is subject to § 5–103 of this title;

22 (2) Any cutting or clearing of forest in areas governed by the Chesapeake
23 Bay Critical Area Protection Law (Title 8, Subtitle 18 of this article);

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) Commercial logging and timber harvesting operations, including any
2 harvesting conducted under the forest conservation and management program under §
3 8–211 of the Tax – Property Article:

4 (i) That were completed before July 1, 1991; or

5 (ii) That were completed on or after July 1, 1991 on property that is
6 not the subject of an application for a grading permit for development within 5 years after
7 the logging or harvesting operation. However, after this 5–year period, the property shall
8 be subject to this subtitle;

9 (4) Any agricultural activity that does not result in a change in land use
10 category, including agricultural support buildings and other related structures built using
11 accepted best management practices;

12 (5) The cutting or clearing of public utility rights–of–way or land for
13 electric generating stations licensed pursuant to § 7–204, § 7–205, § 7–207, or § 7–208 of
14 the Public Utilities Article, provided that:

15 (i) Any required certificates of public convenience and necessity
16 have been issued in accordance with § 5–1603(f) of this subtitle; and

17 (ii) The cutting or clearing of the forest is conducted so as to
18 minimize the loss of forest;

19 (6) Any routine maintenance of public utility rights–of–way;

20 (7) Any activity conducted on a single lot of any size or a linear project
21 provided that:

22 (i) The activity does not result in the cutting, clearing, or grading of
23 more than 20,000 square feet of forest; and

24 (ii) The activity on the lot or linear project will not result in the
25 cutting, clearing, or grading of any forest that is subject to the requirements of a previous
26 forest conservation plan prepared under this subtitle;

27 (8) Any strip or deep mining of coal regulated under Title 15, Subtitle 5 or
28 Subtitle 6 of the Environment Article and any noncoal surface mining regulated under Title
29 15, Subtitle 8 of the Environment Article;

30 (9) Any activity required for the purpose of constructing a dwelling house
31 intended for the use of the owner, or a child of the owner, if the activity does not result in
32 the cutting, clearing, or grading of more than 20,000 square feet of forest;

1 (10) A county that has and maintains 200,000 acres or more of its land area
2 in forest cover;

3 (11) The cutting or clearing of trees to comply with the requirements of:

4 **(I)** 14 C.F.R. § 77.25 relating to objects affecting navigable airspace,
5 provided that the Federal Aviation Administration has determined that the trees are a
6 hazard to aviation; **OR**

7 **(II) § 5-703 OF THE TRANSPORTATION ARTICLE RELATING TO**
8 **OBSTRUCTIONS TO AIR NAVIGATION, PROVIDED THAT THE MARYLAND AVIATION**
9 **ADMINISTRATION HAS DETERMINED THAT THE TREES ARE A HAZARD TO AIR**
10 **NAVIGATION;**

11 (12) Any stream restoration project for which the applicant for a grading or
12 sediment control permit has executed a binding maintenance agreement of at least 5 years
13 with the affected property owner; and

14 (13) Maintenance or retrofitting of a stormwater management structure
15 that may include clearing of vegetation or removal and trimming of trees, so long as the
16 maintenance or retrofitting is within the original limits of disturbance for construction of
17 the existing structure, or within any maintenance easement for access to the structure.

18 (c) For an application for subdivision or sediment and erosion control or grading
19 for a site with more than 50% of the net tract area governed by Title 8, Subtitle 18 of this
20 article, the Department or local authority may allow an applicant to extend critical area
21 forest protection measures instead of meeting the requirements of this subtitle.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2017.