

# SENATE BILL 158

M3

7lr1848

---

By: **Senator Conway**

Introduced and read first time: January 16, 2017

Assigned to: Education, Health, and Environmental Affairs

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Oil Disaster Containment, Clean-Up and Contingency Fund and Oil**  
3 **Contaminated Site Environmental Cleanup Fund**

4 FOR the purpose of altering the basis for calculating a certain license fee credited to the  
5 Maryland Oil Disaster Containment, Clean-Up and Contingency Fund; expanding,  
6 for certain fiscal years, the purposes for which the Department of the Environment  
7 may use money in the Maryland Oil Disaster Containment, Clean-Up and  
8 Contingency Fund; extending the deadline by which the owner of a certain eligible  
9 heating oil tank may apply for reimbursement of certain costs from the Oil  
10 Contaminated Site Environmental Cleanup Fund; and generally relating to the  
11 Maryland Oil Disaster Containment, Clean-Up and Contingency Fund and Oil  
12 Contaminated Site Environmental Cleanup Fund.

13 BY repealing and reenacting, with amendments,  
14 Article – Environment  
15 Section 4-411 and 4-705  
16 Annotated Code of Maryland  
17 (2013 Replacement Volume and 2016 Supplement)

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

20 **Article – Environment**

21 4-411.

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

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

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) "Fund" means the Maryland Oil Disaster Containment, Clean-Up and  
2 Contingency Fund.

3 (4) "Transfer" means the offloading or unloading of oil in the State from or  
4 to any commercial vessel, barge, tank truck, tank car, pipeline, or any other means used  
5 for transporting oil.

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

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

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

14 1. Before [July 1, 2017] **JULY 1, 2019**, a 7.75 cents per  
15 barrel fee for oil transferred in the State; and

16 2. On or after [July 1, 2017] **JULY 1, 2019**, a 5 cents per  
17 barrel fee for oil transferred in the State; and

18 (ii) Until [July 1, 2017] **JULY 1, 2019**, based on an additional 0.25  
19 cent per barrel fee for oil transferred in the State and credited to the Oil Contaminated Site  
20 Environmental Cleanup Fund as described in Subtitle 7 of this title.

21 (2) The license fee shall be paid quarterly to the Department and on receipt  
22 by the Comptroller, credited to the proper fund. The licensee shall certify to the  
23 Department, on forms as may be prescribed by the Department, the number of barrels of  
24 oil transferred by the licensee during the fee quarter no later than the last day of the month  
25 following the fee quarter. These records shall be kept confidential by the Department.

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

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

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

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

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

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

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

19           (f) (1) There is a Maryland Oil Disaster Containment, Clean-Up and  
20 Contingency Fund for the Department to use to develop equipment, personnel, and plans;  
21 for contingency actions to respond to, contain, clean-up, and remove from the land and  
22 waters of the State discharges of oil, petroleum products, and their by-products into, upon,  
23 or adjacent to the waters of the State; and restore natural resources damaged by discharges.  
24 The Fund may also be used by the Department for oil-related activities in water pollution  
25 control programs. The cost of containment, clean-up, removal, and restoration, including  
26 attorneys' fees and litigation costs, shall be reimbursed to the State by the person  
27 responsible for the discharge. The reimbursement shall be credited to the Fund. The Fund  
28 shall be limited in accordance with the limits set forth in this section. To this sum shall be  
29 credited every license fee, fine, if imposed by the circuit court for any county, and any other  
30 charge related to this subtitle. To this Fund shall be charged every expense the Department  
31 of the Environment has which relates to this section.

32           (2) Notwithstanding any other provision of this section, in fiscal years  
33 **[2015 and 2016] 2018 AND 2019** only, the Fund may be used to pay costs associated with  
34 the purposes of the Oil Contaminated Site Environmental Cleanup Fund specified in §  
35 4-704 of this title.

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

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

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

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

8 (4) Paying insurance costs by the State to extend or implement the benefits  
9 of the Fund;

10 (5) Expenses related to oil-related activities in the Department's water  
11 pollution control programs; and

12 (6) In fiscal years [2015 and 2016] **2018 AND 2019** only, paying costs  
13 associated with the purposes of the Oil Contaminated Site Environmental Cleanup Fund  
14 specified in § 4-704 of this title.

15 (h) The Department shall provide the standing committees of the Maryland  
16 General Assembly with primary jurisdiction over this section with a status report on the  
17 Fund on or before January 1 of each year in accordance with § 2-1246 of the State  
18 Government Article. The report shall include an accounting of all moneys expended for each  
19 of the purposes specified in subsection (g) of this section.

20 4-705.

21 (a) The owner or operator of an underground oil storage tank eligible under §  
22 4-704(b)(1)(ii) of this subtitle may apply to the Fund for reimbursement, until December  
23 31, 2007, for usual, customary, and reasonable costs incurred on or after October 1, 2000 in  
24 performing site rehabilitation.

25 (b) Until [June 30, 2017] **JUNE 30, 2019**, the owner of a heating oil tank eligible  
26 under § 4-704(b)(1)(iii) of this subtitle may apply to the Fund for reimbursement no later  
27 than 6 months after the completion of rehabilitation for usual, customary, and reasonable  
28 costs incurred on or after October 1, 2000 in performing site rehabilitation.

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

31 (i) For owners or operators of six tanks or fewer, a deductible of  
32 \$7,500;

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

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

3 (iv) For owners or operators of more than 30 tanks, a deductible of  
4 \$20,000; and

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

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

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

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

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

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

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

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

18 (e) If the owner or operator knowingly submits a false certification under  
19 subsection (d) of this section, that owner or operator is not eligible for reimbursement under  
20 this subtitle.

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

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

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
28 1, 2017.