

Chapter 375

(House Bill 121)

AN ACT concerning

Environment – Hazardous Material Security – Repeal

FOR the purpose of repealing a requirement to deposit certain fees collected by the Department of the Environment for a certain purpose into a certain account within the Community Right-to-Know Fund; repealing a requirement that certain persons analyze the security of certain facilities in accordance with certain requirements; repealing a requirement that a certain analysis be submitted to the Department of the Environment in accordance with certain requirements; repealing a certain fee; repealing a certain fee exemption for counties and municipalities; repealing a provision of law that provides for the confidentiality of certain analyses and documents under certain circumstances; repealing a requirement that the Department of State Police disclose certain information under certain circumstances; repealing the requirement that the Department of the Environment adopt hazardous material security standards in accordance with certain requirements; repealing a requirement that the Department of the Environment, in consultation with the Department of State Police, audit a certain facility in a certain manner; repealing a requirement that the Department of the Environment refer certain violations to the Department of State Police under certain circumstances; repealing a requirement that the Department of the Environment adopt certain regulations; repealing a requirement that the Department of State Police, in consultation with the Department of the Environment, adopt certain regulations to enforce compliance by a certain facility with certain hazardous material security standards; repealing a requirement that funds in the Community Right-to-Know Fund be used by the Department of the Environment for certain purposes; repealing a provision of law that prohibits a person from knowingly submitting certain false information under certain circumstances; repealing certain penalties for certain violations; repealing a provision of law that requires a certain facility to comply with certain federal, State, or local reporting requirements; repealing certain defined terms; and generally relating to repealing provisions of law relating to the reporting and regulation of hazardous material security.

BY repealing and reenacting, without amendments,
Article – Environment
Section 7–604(a)
Annotated Code of Maryland
(2013 Replacement Volume and 2016 Supplement)

BY repealing
Article – Environment
Section 7–604(m); and 7–701 through 7–709 and the subtitle “Subtitle 7. Hazardous Material Security”

Annotated Code of Maryland
(2013 Replacement Volume and 2016 Supplement)

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

Article – Environment

7–604.

(a) Notwithstanding § 7–219 of this title, there is a Community Right-to-Know Fund.

[(m) Notwithstanding subsections (b) through (l) of this section, there shall be a separate account within the Community Right-to-Know Fund consisting of all fees collected by the Department under Subtitle 7 of this title or funds appropriated in the State budget for all costs incurred by the Department for the purposes stated under § 7–706 of this title.]

[Subtitle 7. Hazardous Material Security.]

[7–701.

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

(b) (1) “Facility” means a location in the State in which a hazardous material is stored, dispensed, used, or handled.

(2) “Facility” does not include:

(i) A railroad, rail train, or rail car regulated under 49 U.S.C. Subtitle IV, Part A; or

(ii) A retail distributor whose principal business is to sell or offer for sale, at the retail level, commercial fertilizer intended for agricultural use.

(c) (1) “Hazardous material” means a regulated substance as defined in 40 C.F.R. 68.130 in excess of the threshold quantity specified in that regulation.

(2) “Hazardous material” does not include a substance that is exempt or excluded under 40 C.F.R. 68.125 and 40 C.F.R. 68.126.]

[7–702.

(a) This subtitle applies to any person who owns, operates, maintains, or causes to operate or maintain a facility in this State.

(b) This subtitle does not apply in a local jurisdiction that adopts hazardous material security standards that are at least as stringent as the standards under § 7-703 of this subtitle.

(c) On or before October 1, 2005, and at least every 5 years thereafter, a person subject to this subtitle shall:

(1) Analyze the security of the facility in accordance with the hazardous material security standards adopted by the Department under § 7-703 of this subtitle;

(2) Submit to the Department the analysis required under paragraph (1) of this subsection, including potential security threats, vulnerabilities, and consequences to the facility and any changes taken to implement this subtitle at the facility; and

(3) Except as provided in subsection (d) of this section, submit a fee of \$2,500 to the Department.

(d) Counties and municipal corporations are exempt from submitting the fee required under subsection (c)(3) of this section.

(e) The fees received under subsection (c)(3) of this section shall be paid into a separate account in the Community Right-To-Know Fund.

(f) (1) The analyses prepared and submissions required under subsection (c) of this section, or documents prepared under § 7-703 of this subtitle to comply with subsection (c) of this section, and their supporting documents are confidential and are not public documents that may be disclosed without prior written permission of the person subject to this subtitle in accordance with Title 4 of the General Provisions Article.

(2) (i) Notwithstanding paragraph (1) of this subsection, the Department of State Police shall disclose information related to any investigation and enforcement action taken against a facility under this subtitle if the Department of State Police determines that disclosure would not result in any additional risk to the public.

(ii) If the Department of State Police makes the determination to disclose information under this paragraph, the Department of State Police shall determine which documents related to the enforcement action and investigation may be disclosed as public documents subject to Title 10, Subtitle 6 of the State Government Article.]

[7-703.

On or before January 1, 2005, the Department shall adopt hazardous material security standards that require:

- (1) Prioritization and periodic analysis, using accepted methodologies, of potential security threats, vulnerabilities, and consequences;
- (2) Development and implementation of security measures commensurate with risks;
- (3) Documentation of security management programs, processes, and procedures;
- (4) Training, drills, and guidance for employees, contractors, service providers, and others, as appropriate, to enhance awareness and capability;
- (5) Communications, dialogue, and exchange of information with employees, communities, and government agencies and officials;
- (6) Internal audits to assess security programs and processes and the implementation of corrective measures; and
- (7) Third-party verification that owners and operators have implemented the physical security measures that have been identified under the required periodic analysis of potential security threats, vulnerabilities, and consequences.]

[7-704.

- (a) The Department, in consultation with the Department of State Police, shall audit a facility, through an inspection or other investigation, to verify the analysis submitted in accordance with § 7-702(c)(2) of this subtitle.
- (b) If the Department, through an audit, finds that the facility is not in compliance with the hazardous material security standards of this subtitle, the Department shall refer the violation to the Department of State Police for enforcement.]

[7-705.

- (a) Subject to subsection (b) of this section, on or before January 1, 2005, the Department shall adopt regulations to carry out the provisions of this subtitle.
- (b) The Department of State Police, in consultation with the Department, shall adopt a regulation or a part of a regulation to enforce compliance by a facility with the hazardous material security standards adopted under this subtitle.]

[7-706.

Funds in the Community Right-to-Know Fund under § 7-604(m) of this title shall be used by the Department for the following purposes:

(1) Processing the information submitted to the Department under this subtitle; and

(2) Regulation of this subtitle, including auditing a facility for compliance with the provisions of this subtitle.]

[7-707.

A person may not knowingly submit false information under this subtitle.]

[7-708.

(a) A person who violates this subtitle or any regulation adopted under this subtitle is subject to a civil penalty not exceeding \$1,000 per violation.

(b) Each day that a violation continues is a separate violation.]

[7-709.

This subtitle does not relieve any facility from any requirement under any federal, State, or local law or ordinance to report to units of federal, State, or local government.]

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

Approved by the Governor, May 4, 2017.