

# HOUSE BILL 649

M3

(2lr1564)

## ENROLLED BILL

— *Environment and Transportation/Education, Health, and Environmental Affairs* —

Introduced by **Delegates Love, Boyce, Guyton, Lehman, Ruth, Stein, and Stewart**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Environment – Discharge Permits – Inspections and Administrative**  
3 **Continuations**

4 FOR the purpose of ~~limiting the period of time for which the Department of the~~  
5 ~~Environment may administratively continue certain water pollution discharge~~  
6 ~~permits~~; establishing inspection and reporting requirements for certain permit  
7 holders; requiring the Department of the Environment to notify certain Senators and  
8 Delegates about the noncompliance of a certain permit holder ~~maintain on its website~~  
9 ~~a list of certain noncompliant permit holders and provide certain Senators and~~  
10 Delegates with a link to the list; establishing administrative penalties for certain  
11 permit holders determined to be in significant noncompliance of certain State or  
12 federal water quality standards, effluent limitations, or other requirements;  
13 requiring the Department to clear a certain backlog of administratively continued  
14 permits on or before a certain date; and generally relating to water pollution  
15 discharge permits.

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 BY repealing and reenacting, ~~with~~ without amendments,  
2 Article – Environment  
3 Section 9–328  
4 Annotated Code of Maryland  
5 (2014 Replacement Volume and 2021 Supplement)

6 BY adding to  
7 Article – Environment  
8 Section 9–328.1  
9 Annotated Code of Maryland  
10 (2014 Replacement Volume and 2021 Supplement)

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

13 **Article – Environment**

14 9–328.

15 (a) (1) Unless it is renewed for another term, a discharge permit expires on  
16 the expiration date the Department sets at issuance or renewal.

17 (2) The Department may not issue a discharge permit for a term longer  
18 than 5 years.

19 (b) Before a discharge permit expires, the Department may renew the discharge  
20 permit for another term:

21 (1) After administrative review in accordance with the rules and  
22 regulations that the Department adopts;

23 (2) After notice and opportunity for public hearing on the subject;

24 (3) On the condition that the discharge meets or will meet:

25 (i) Any applicable State or federal water quality standards or  
26 effluent limitations; and

27 (ii) Any applicable requirement of this subtitle; and

28 (4) If the permit holder pays all application and permit fees assessed by the  
29 Department under this subtitle.

1           (c) ~~(1) ON OR AFTER JULY 1, 2022, THE DEPARTMENT MAY NOT~~  
2 ~~ADMINISTRATIVELY CONTINUE A DISCHARGE PERMIT FOR A PERIOD LONGER THAN~~  
3 ~~3 YEARS.~~

4           ~~(2) ON OR AFTER JANUARY 1, 2027, THE DEPARTMENT MAY NOT~~  
5 ~~ADMINISTRATIVELY CONTINUE A DISCHARGE PERMIT FOR A PERIOD LONGER THAN~~  
6 ~~1 YEAR.~~

7           ~~(D)~~ Administrative review proceedings under this section shall be completed at  
8 least 60 days before the expiration date of the permit.

9 9-328.1.

10           (A) (1) IN THIS SECTION, “ADMINISTRATIVELY CONTINUED PERMIT”  
11 MEANS A DISCHARGE PERMIT THAT HAS BEEN ADMINISTRATIVELY CONTINUED  
12 UNDER DEPARTMENT REGULATIONS IN ACCORDANCE WITH 40 C.F.R. § 122.6(D).

13           (2) “ADMINISTRATIVELY CONTINUED PERMIT” DOES NOT INCLUDE A  
14 DISCHARGE PERMIT THAT HAS BEEN CONTINUED BEYOND ITS ORIGINAL  
15 EXPIRATION DATE DUE TO AN ENFORCEMENT ACTION TAKEN DURING THE PERMIT  
16 TERM.

17           (B) (1) TO ENSURE COMPLIANCE WITH THE TERMS OF A DISCHARGE  
18 PERMIT, ~~AT LEAST ONCE PER MONTH THE DEPARTMENT SHALL INSPECT THE~~  
19 ~~OPERATIONS OF;~~ CONDUCT INSPECTIONS IN ACCORDANCE WITH THIS SUBSECTION.

20           ~~(1) EACH PERMIT HOLDER OPERATING UNDER AN~~  
21 ~~ADMINISTRATIVELY CONTINUED PERMIT; AND~~

22           ~~(2) EACH PERMIT HOLDER THAT THE DEPARTMENT HAS~~  
23 ~~DETERMINED TO BE IN SIGNIFICANT NONCOMPLIANCE OF AN APPLICABLE STATE~~  
24 ~~OR FEDERAL WATER QUALITY STANDARD, EFFLUENT LIMITATION, OR OTHER~~  
25 ~~APPLICABLE REQUIREMENT OF THE DEPARTMENT OR THE U.S. ENVIRONMENTAL~~  
26 ~~PROTECTION AGENCY.~~

27           (2) (i) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
28 PARAGRAPH, AND SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, BEGINNING  
29 JULY 1, 2022, AT LEAST ONCE PER MONTH THE DEPARTMENT SHALL INSPECT EACH  
30 FACILITY OR SITE THAT THE DEPARTMENT OR THE U.S. ENVIRONMENTAL  
31 PROTECTION AGENCY HAS DETERMINED TO BE IN SIGNIFICANT NONCOMPLIANCE  
32 WITH AN APPLICABLE STATE OR FEDERAL WATER QUALITY STANDARD, EFFLUENT  
33 LIMITATION, OR OTHER APPLICABLE REQUIREMENT OF THE DEPARTMENT OR THE  
34 U.S. ENVIRONMENTAL PROTECTION AGENCY.

1                   (II) IF A FACILITY OR SITE IS DETERMINED TO BE IN  
2 SIGNIFICANT NONCOMPLIANCE SOLELY DUE TO THE FAILURE TO REPORT ANY  
3 REQUIRED INFORMATION TO THE DEPARTMENT OR THE U.S. ENVIRONMENTAL  
4 PROTECTION AGENCY, THE DEPARTMENT MAY:

5                   1. DELAY INSPECTIONS UNDER SUBPARAGRAPH (I) OF  
6 THIS PARAGRAPH BY 1 MONTH WHILE THE DEPARTMENT REVIEWS THE  
7 COMPLIANCE STATUS OF THE FACILITY OR SITE THROUGH CORRESPONDENCE WITH  
8 THE OWNER OR OPERATOR OF THE FACILITY OR SITE OR OTHER APPROPRIATE  
9 METHODS; AND

10                   2. BEGIN MONTHLY INSPECTIONS IN ACCORDANCE  
11 WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH IF, AFTER THE PERIOD SPECIFIED IN  
12 ITEM 1 OF THIS SUBPARAGRAPH, THE OWNER OR OPERATOR OF THE FACILITY OR  
13 SITE HAS NOT PROVIDED THE INFORMATION NECESSARY FOR THE DEPARTMENT TO  
14 DETERMINE THE COMPLIANCE STATUS OF THE FACILITY OR SITE.

15                   (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
16 PARAGRAPH AND SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, BEGINNING  
17 JULY 1, 2023, AT LEAST ONCE EVERY 90 DAYS, THE DEPARTMENT SHALL INSPECT  
18 EACH FACILITY OR SITE THAT HAS BEEN OPERATING UNDER AN ADMINISTRATIVELY  
19 CONTINUED PERMIT FOR LONGER THAN 365 DAYS.

20                   (II) THE DEPARTMENT IS NOT REQUIRED TO INSPECT THE  
21 OPERATIONS OF A FACILITY OR SITE OPERATING A GENERAL PERMIT THAT HAS  
22 BEEN ADMINISTRATIVELY CONTINUED, UNLESS THE DEPARTMENT OR THE U.S.  
23 ENVIRONMENTAL PROTECTION AGENCY HAS DETERMINED THE FACILITY OR SITE  
24 TO BE IN SIGNIFICANT NONCOMPLIANCE AS SPECIFIED UNDER PARAGRAPH (2) OF  
25 THIS SUBSECTION.

26                   (4) INSPECTIONS REQUIRED UNDER THIS SUBSECTION MAY BE  
27 CONDUCTED BY MEANS OTHER THAN AN IN-PERSON INSPECTION OF THE FACILITY  
28 OR SITE IF THE PRESENCE OF THE INSPECTOR WOULD RESULT IN AN  
29 UNREASONABLE RISK TO HEALTH, SAFETY, OR WELFARE.

30                   (c) (1) THIS SUBSECTION APPLIES TO A PERMIT HOLDER THAT‡

31                   (I) IS IS DETERMINED BY THE DEPARTMENT OR THE U.S.  
32 ENVIRONMENTAL PROTECTION AGENCY TO BE IN SIGNIFICANT NONCOMPLIANCE  
33 OF AN APPLICABLE STATE OR FEDERAL WATER QUALITY STANDARD, EFFLUENT  
34 LIMITATION, OR OTHER APPLICABLE REQUIREMENT OF THE DEPARTMENT OR THE  
35 U.S. ENVIRONMENTAL PROTECTION AGENCY TWO OR MORE TIMES IN A YEAR‡

1 ~~(H) REPORTS EXCEEDING EFFLUENT LIMITATIONS FOR TWO OR~~  
 2 ~~MORE PARAMETERS REQUIRED TO BE MONITORED UNDER THE DISCHARGE PERMIT;~~  
 3 ~~OR~~

4 ~~(HH) REPORTS EXCEEDING, BY 200% OR MORE, EFFLUENT~~  
 5 ~~LIMITATIONS FOR ANY SINGLE PARAMETER REQUIRED TO BE MONITORED UNDER~~  
 6 ~~THE DISCHARGE PERMIT.~~

7 (2) THE DEPARTMENT SHALL REQUIRE A PERMIT HOLDER  
 8 SPECIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO SUBMIT A WRITTEN  
 9 REPORT TO THE DEPARTMENT DETAILING:

10 (I) HOW VIOLATIONS REPORTED BY THE PERMIT HOLDER OR  
 11 NOTED BY THE DEPARTMENT WILL BE ADDRESSED; AND

12 (II) THE TIMELINE FOR ADDRESSING THE VIOLATIONS.

13 ~~(3) THE DEPARTMENT SHALL NOTIFY THE SENATOR AND DELEGATE~~  
 14 ~~REPRESENTING THE JURISDICTION IN WHICH A PERMIT HOLDER IS IN SIGNIFICANT~~  
 15 ~~NONCOMPLIANCE UNDER PARAGRAPH (1) OF THIS SUBSECTION ABOUT THE~~  
 16 ~~NONCOMPLIANCE BY E-MAIL AND CERTIFIED MAIL.~~

17 (3) (I) THE DEPARTMENT SHALL MAINTAIN ON ITS WEBSITE A LIST  
 18 OF PERMIT HOLDERS DETERMINED TO BE IN SIGNIFICANT NONCOMPLIANCE UNDER  
 19 PARAGRAPH (1) OF THIS SUBSECTION.

20 (II) THE LIST SHALL BE SORTED BY COUNTY.

21 (III) THE DEPARTMENT SHALL PROVIDE EACH SENATOR AND  
 22 DELEGATE A LINK TO THE LIST BY MONTHLY E-MAIL.

23 (D) (1) IF A PERMIT HOLDER REMAINS IN SIGNIFICANT NONCOMPLIANCE  
 24 FOR THE SAME UNDERLYING CONDITION AFTER 2 CONSECUTIVE MONTHS OF  
 25 INSPECTIONS CONDUCTED UNDER SUBSECTION ~~(B)(2)~~ (B) OF THIS SECTION, THE  
 26 PERMIT HOLDER SHALL BE SUBJECT TO AN ADMINISTRATIVE PENALTY OF:

27 (I) FOR A PERMIT HOLDER ~~CLASSIFIED BY THE DEPARTMENT~~  
 28 ~~AS A MINOR FACILITY~~ FOR A FACILITY THAT DISCHARGES LESS THAN 500,000  
 29 GALLONS PER DAY:

30 1. \$250 WHEN THE CONDITION IS OBSERVED ON THE  
 31 THIRD CONSECUTIVE INSPECTION;

1                                   **2.     \$500 WHEN THE CONDITION IS OBSERVED ON THE**  
 2 **FOURTH CONSECUTIVE INSPECTION; AND**

3                                   **3.     \$2,500 WHEN THE CONDITION IS OBSERVED ON THE**  
 4 **FIFTH CONSECUTIVE INSPECTION OR ANY SUBSEQUENT CONSECUTIVE INSPECTION;**  
 5 **AND**

6                                   **(II)   FOR A PERMIT HOLDER ~~CLASSIFIED BY THE DEPARTMENT~~**  
 7 **~~AS A MAJOR FACILITY~~ FOR A FACILITY THAT DISCHARGES 500,000 GALLONS OR**  
 8 **MORE PER DAY:**

9                                   **1.     \$1,000 WHEN THE CONDITION IS OBSERVED ON THE**  
 10 **THIRD CONSECUTIVE INSPECTION;**

11                                   **2.     \$5,000 WHEN THE CONDITION IS OBSERVED ON THE**  
 12 **FOURTH CONSECUTIVE INSPECTION; AND**

13                                   **3.     \$10,000 WHEN THE CONDITION IS OBSERVED ON THE**  
 14 **FIFTH CONSECUTIVE INSPECTION OR ANY SUBSEQUENT CONSECUTIVE INSPECTION.**

15                                   **(2)   THE PENALTIES PROVIDED UNDER THIS SUBSECTION ARE IN**  
 16 **ADDITION TO ANY OTHER CIVIL OR CRIMINAL PENALTIES PROVIDED UNDER THIS**  
 17 **SUBTITLE.**

18                   SECTION 2. AND BE IT FURTHER ENACTED, That:

19           (a)   In this section, "Department" means the Department of the Environment.

20           (b)   ~~Subject to subsection (c) of this section, this Act shall be interpreted to apply~~  
 21 ~~only prospectively to discharge permits issued, renewed, or administratively continued on~~  
 22 ~~or after the effective date of this Act.~~

23           ~~(c)~~   On or before December 31, 2026, the Department shall clear the backlog of  
 24 administratively continued discharge permits ~~existing on the effective date of this Act.~~

25           ~~(d)~~ (c) (1)   On or before ~~December 31, 2023~~ October 1, 2022, the Department shall  
 26 report to the Governor and, in accordance with § 2-1257 of the State Government Article,  
 27 the General Assembly on the number of additional employees necessary to:

28                                   (i)   clear the backlog of administratively continued discharge  
 29 permits, as required by subsection ~~(c)~~ (b) of this section; and

30                                   (ii)   process discharge permit renewals in a timely manner, ~~as~~  
 31 ~~required by § 9-328(c) of the Environment Article, as enacted by Section 1 of this Act.~~

1 (2) The Department shall request:

2 (i) on or before December 31, ~~2024~~ 2022, Position Identification  
3 Numbers (PINs) for at least half of the additional employees identified in the report  
4 required under paragraph (1) of this subsection; and

5 (ii) on or before December 31, ~~2025~~ 2023, PINs for the full number  
6 of additional employees identified in the report required under paragraph (1) of this  
7 subsection.

8 ~~(e) (d)~~ On or before December 31, 2025, and each year thereafter, the Department  
9 shall report to the Governor and, in accordance with § 2-1257 of the State Government  
10 Article, the General Assembly on ~~the progress toward meeting the requirements of this~~  
11 ~~section~~;

12 (1) the number of facilities or sites subject to discharge permits that were  
13 administratively continued or expired at the end of the prior fiscal year, by census tract;  
14 and

15 (2) the number of additional positions for the subsequent fiscal year that  
16 the Department needs to ensure that any discharge permits that have been continued or  
17 expired for more than 365 days are renewed in a timely manner.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
19 1, 2022.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
Speaker of the House of Delegates.

\_\_\_\_\_  
President of the Senate.