

HOUSE BILL 121

M3

71r0058

By: **Chair, Environment and Transportation Committee (By Request –
Departmental – Environment)**

Introduced and read first time: January 18, 2017

Assigned to: Environment and Transportation

Committee Report: Favorable

House action: Adopted

Read second time: February 21, 2017

CHAPTER _____

1 AN ACT concerning

2 **Environment – Hazardous Material Security – Repeal**

3 FOR the purpose of repealing a requirement to deposit certain fees collected by the
4 Department of the Environment for a certain purpose into a certain account within
5 the Community Right-to-Know Fund; repealing a requirement that certain persons
6 analyze the security of certain facilities in accordance with certain requirements;
7 repealing a requirement that a certain analysis be submitted to the Department of
8 the Environment in accordance with certain requirements; repealing a certain fee;
9 repealing a certain fee exemption for counties and municipalities; repealing a
10 provision of law that provides for the confidentiality of certain analyses and
11 documents under certain circumstances; repealing a requirement that the
12 Department of State Police disclose certain information under certain circumstances;
13 repealing the requirement that the Department of the Environment adopt hazardous
14 material security standards in accordance with certain requirements; repealing a
15 requirement that the Department of the Environment, in consultation with the
16 Department of State Police, audit a certain facility in a certain manner; repealing a
17 requirement that the Department of the Environment refer certain violations to the
18 Department of State Police under certain circumstances; repealing a requirement
19 that the Department of the Environment adopt certain regulations; repealing a
20 requirement that the Department of State Police, in consultation with the
21 Department of the Environment, adopt certain regulations to enforce compliance by
22 a certain facility with certain hazardous material security standards; repealing a
23 requirement that funds in the Community Right-to-Know Fund be used by the
24 Department of the Environment for certain purposes; repealing a provision of law

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.



1 that prohibits a person from knowingly submitting certain false information under
2 certain circumstances; repealing certain penalties for certain violations; repealing a
3 provision of law that requires a certain facility to comply with certain federal, State,
4 or local reporting requirements; repealing certain defined terms; and generally
5 relating to repealing provisions of law relating to the reporting and regulation of
6 hazardous material security.

7 BY repealing and reenacting, without amendments,
8 Article – Environment
9 Section 7–604(a)
10 Annotated Code of Maryland
11 (2013 Replacement Volume and 2016 Supplement)

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

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

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

29 [Subtitle 7. Hazardous Material Security.]

30 [7–701.

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

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

34 (2) “Facility” does not include:

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

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

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

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

9 [7-702.

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

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

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

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

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

22 (3) Except as provided in subsection (d) of this section, submit a fee of
23 \$2,500 to the Department.

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

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

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

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

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

9 [7-703.

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

12 (1) Prioritization and periodic analysis, using accepted methodologies, of
13 potential security threats, vulnerabilities, and consequences;

14 (2) Development and implementation of security measures commensurate
15 with risks;

16 (3) Documentation of security management programs, processes, and
17 procedures;

18 (4) Training, drills, and guidance for employees, contractors, service
19 providers, and others, as appropriate, to enhance awareness and capability;

20 (5) Communications, dialogue, and exchange of information with
21 employees, communities, and government agencies and officials;

22 (6) Internal audits to assess security programs and processes and the
23 implementation of corrective measures; and

24 (7) Third-party verification that owners and operators have implemented
25 the physical security measures that have been identified under the required periodic
26 analysis of potential security threats, vulnerabilities, and consequences.]

27 [7-704.

28 (a) The Department, in consultation with the Department of State Police, shall
29 audit a facility, through an inspection or other investigation, to verify the analysis
30 submitted in accordance with § 7-702(c)(2) of this subtitle.

31 (b) If the Department, through an audit, finds that the facility is not in
32 compliance with the hazardous material security standards of this subtitle, the Department
33 shall refer the violation to the Department of State Police for enforcement.]

1 [7-705.

2 (a) Subject to subsection (b) of this section, on or before January 1, 2005, the
3 Department shall adopt regulations to carry out the provisions of this subtitle.

4 (b) The Department of State Police, in consultation with the Department, shall
5 adopt a regulation or a part of a regulation to enforce compliance by a facility with the
6 hazardous material security standards adopted under this subtitle.】

7 [7-706.

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

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

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

14 [7-707.

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

16 [7-708.

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

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

20 [7-709.

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

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
24 1, 2017.