

SENATE BILL 661

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11r2400

By: **Senator Patterson**

Introduced and read first time: February 3, 2021

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 25, 2021

CHAPTER _____

1 AN ACT concerning

2 **Environment – Maryland Oil Disaster Containment, Clean-Up and Contingency**
3 **Fund and Oil Contaminated Site Environmental Cleanup Fund – Funding,**
4 **Reallocation, ~~and~~ Reimbursements, and Study**

5 FOR the purpose of altering the basis for calculating a certain license fee credited to the
6 Maryland Oil Disaster Containment, Clean-Up and Contingency Fund and the Oil
7 Contaminated Site Environmental Cleanup Fund; authorizing the Maryland Oil
8 Disaster Containment, Clean-Up and Contingency Fund to be used, in certain fiscal
9 years, to reimburse the residential owner of a heating oil tank that applied to the Oil
10 Contaminated Site Environmental Cleanup Fund on or before a certain date;
11 extending the date by which a residential owner of a certain heating oil tank may
12 apply to the Oil Contaminated Site Environmental Cleanup Fund for reimbursement
13 of certain costs; requiring the Department of the Environment to conduct a certain
14 study and report its findings and recommendations to the General Assembly after a
15 certain date but before a certain date; making conforming and stylistic changes; and
16 generally relating to the Maryland Oil Disaster Containment, Clean-Up and
17 Contingency Fund and Oil Contaminated Site Environmental Cleanup Fund.

18 BY repealing and reenacting, without amendments,
19 Article – Environment
20 Section 4-411(a)(1) and (3), and 4-701(a) and (c), ~~and 4-705(b)~~
21 Annotated Code of Maryland
22 (2013 Replacement Volume and 2020 Supplement)

23 BY repealing and reenacting, with amendments,

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 Article – Environment
 2 Section 4–411(c), (f), and (g) and 4–705(b)
 3 Annotated Code of Maryland
 4 (2013 Replacement Volume and 2020 Supplement)

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

7 **Article – Environment**

8 4–411.

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

10 (3) “Fund” means the Maryland Oil Disaster Containment, Clean–Up and
 11 Contingency Fund.

12 (c) (1) A license required under this section shall be secured from the
 13 Department of the Environment subject to the terms and conditions set forth in this section.

14 (2) The fee on any barrel shall be imposed only once, at the point of first
 15 transfer in the State.

16 (3) The license fee shall be:

17 (i) Credited to the Maryland Oil Disaster Containment, Clean–Up
 18 and Contingency Fund and based on:

19 1. Before July 1, [2021] **2024**, a ~~7.75~~ **8** cents per barrel fee
 20 for oil transferred in the State; and

21 2. On or after July 1, [2021] **2024**, a 5 cents per barrel fee
 22 for oil transferred in the State; and

23 (ii) Until July 1, ~~2021~~ **2024**, based on an additional 0.25 cent per
 24 barrel fee for oil transferred in the State and credited to the Oil Contaminated Site
 25 Environmental Cleanup Fund as described in Subtitle 7 of this title.

26 [(2)] (4) (I) The license fee shall be paid quarterly to the Department
 27 and on receipt by the Comptroller, credited to the proper fund.

28 (II) The licensee shall certify to the Department, on forms as may be
 29 prescribed by the Department, the number of barrels of oil transferred by the licensee
 30 during the fee quarter no later than the last day of the month following the fee quarter.

31 (III) These records shall be kept confidential by the Department.

1 ~~[(3)]~~ **(5)** When the balance in the Maryland Oil Disaster Containment,
2 Clean-Up and Contingency Fund from the monthly license fees paid under paragraph
3 ~~[(1)(i)]~~ **(3)(I)** of this subsection into the Fund equals or exceeds a maximum limit of
4 \$5,000,000, collection of subsequent monthly license fees under paragraph ~~[(1)(i)]~~ **(3)(I)** of
5 this subsection shall be abated until:

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

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

10 ~~[(4)]~~ **(6)** **(I)** If a licensee fails to remit the fee and accompanying
11 certification required by this section, the amount of the license fee due shall be determined
12 by the Department from information as may be available.

13 **(II)** Notice of this determination shall be given to the licensee liable
14 for payment of the license fee.

15 **(III)** The determination shall finally and irrevocably fix the fee unless
16 the licensee against whom it is assessed, within 30 days after receiving notice of the
17 determination, shall apply to the Department for a hearing or unless the Department, on
18 its own, shall redetermine the fee.

19 ~~[(5)]~~ **(7)** The Department shall promulgate rules and regulations,
20 establish audit procedures for the audit of licensees, and prescribe and publish forms as
21 may be necessary to effectuate the purposes of this section.

22 (f) (1) **(I)** There is a Maryland Oil Disaster Containment, Clean-Up and
23 Contingency Fund for the Department to use to develop equipment, personnel, and plans;
24 for contingency actions to respond to, contain, clean-up, and remove from the land and
25 waters of the State discharges of oil, petroleum products, and their by-products into, upon,
26 or adjacent to the waters of the State; and restore natural resources damaged by discharges.

27 **(II)** The Fund may also be used by the Department for oil-related
28 activities in water pollution control programs.

29 **(III)** **1.** The cost of containment, clean-up, removal, and
30 restoration, including attorneys' fees and litigation costs, shall be reimbursed to the State
31 by the person responsible for the discharge.

32 **2.** The reimbursement shall be credited to the Fund.

33 **(IV)** The Fund shall be limited in accordance with the limits set forth
34 in this section.

1 **(V)** To this [sum] **FUND** shall be credited every license fee, fine, if
2 imposed by the circuit court for any county, and any other charge related to this subtitle.

3 **(VI)** To this Fund shall be charged every expense the Department of
4 the Environment has which relates to this section.

5 (2) Notwithstanding any other provision of this section, in fiscal years
6 2019, 2020, and 2021 only, the Fund may be used to pay costs associated with the purposes
7 of the Oil Contaminated Site Environmental Cleanup Fund specified in § 4-704 of this title.

8 **(3) IN FISCAL YEARS 2022 THROUGH ~~2026~~ 2029, THE FUND MAY BE**
9 **USED TO REIMBURSE THE RESIDENTIAL OWNER OF A HEATING OIL TANK THAT**
10 **APPLIED, ON OR BEFORE JUNE 30, ~~2021~~ 2024, TO THE OIL CONTAMINATED SITE**
11 **ENVIRONMENTAL CLEANUP FUND UNDER § ~~4-705(B)~~ 4-705(B)(2) OF THIS TITLE.**

12 (g) **(1)** Money in the Fund not needed currently to meet the Department of the
13 Environment's obligations in the exercise of its responsibility under this section shall be
14 deposited with the State Treasurer to the credit of the Fund, and may be invested as
15 provided by law.

16 **(2)** Interest received on the investment shall be credited to the Fund.

17 **(3)** The Secretary of the Environment shall determine the proper allocation
18 of the money credited to the Fund only for the following purposes:

19 **[(1)] (I)** Administrative expenses, personnel expenses, and equipment
20 costs of the Department related to the purposes of this section;

21 **[(2)] (II)** Prevention, control, containment, clean-up, and removal of
22 discharges into, upon, or adjacent to waters of the State of discharges of oil, petroleum
23 products and their by-products, and the restoration of natural resources damaged by such
24 discharges;

25 **[(3)] (III)** Development of containment and clean-up equipment, plans,
26 and procedures in accordance with the purposes of this section;

27 **[(4)] (IV)** Paying insurance costs by the State to extend or implement the
28 benefits of the Fund;

29 **[(5)] (V)** Expenses related to oil-related activities in the Department's
30 water pollution control programs; [and]

31 **[(6)] (VI)** In fiscal years 2019, 2020, and 2021 only, paying costs associated
32 with the purposes of the Oil Contaminated Site Environmental Cleanup Fund specified in
33 § 4-704 of this title; **AND**

1 (VII) IN FISCAL YEARS 2022 THROUGH ~~2026~~ 2029, REIMBURSING
2 THE RESIDENTIAL OWNER OF A HEATING OIL TANK THAT APPLIED, ON OR BEFORE
3 JUNE 30, ~~2021~~ 2024, TO THE OIL CONTAMINATED SITE ENVIRONMENTAL CLEANUP
4 FUND UNDER ~~§ 4-705(B)~~ 4-705(B)(2) OF THIS TITLE.

5 4-701.

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

7 (c) “Fund” means the Oil Contaminated Site Environmental Cleanup Fund.

8 4-705.

9 (b) **(1)** Until June 30, 2021, the owner of a heating oil tank eligible under §
10 4-704(b)(1)(iii) of this subtitle may apply to the Fund for reimbursement no later than 6
11 months after the completion of rehabilitation for usual, customary, and reasonable costs
12 incurred on or after October 1, 2000 in performing site rehabilitation.

13 **(2)** UNTIL JUNE 30, 2024, THE RESIDENTIAL OWNER OF A HEATING
14 OIL TANK ELIGIBLE UNDER § 4-704(B)(1)(III) OF THIS SUBTITLE MAY APPLY TO THE
15 FUND FOR REIMBURSEMENT NOT LATER THAN 6 MONTHS AFTER THE COMPLETION
16 OF REHABILITATION FOR USUAL, CUSTOMARY, AND REASONABLE COSTS INCURRED
17 ON OR AFTER OCTOBER 1, 2000, IN PERFORMING THE SITE REHABILITATION.

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

19 (a) (1) The Department shall study the Oil Contaminated Site Environmental
20 Cleanup Fund and efforts the State has made to replace aging residential heating oil tanks.

21 (2) The study shall include:

22 (i) The number of reimbursement claims submitted for the
23 replacement of residential heating oil tanks for 2021 and 2022;

24 (ii) The backlog of reimbursement claims submitted for the
25 replacement of residential heating oil tanks for 2021 and 2022;

26 (iii) The average number of days to receive reimbursement after the
27 filing of a reimbursement claim for the replacement of residential heating oil tanks for 2021
28 and 2022;

29 (iv) Recommendations for reducing the number of days for
30 reimbursing claims for the replacement of residential heating oil tanks;

1 (v) Recommendations regarding the continuation of the Oil
2 Contaminated Site Environmental Cleanup Fund; and

3 (vi) Recommendations to improve the State’s response to aging
4 residential heating oil tanks.

5 (b) After December 1, 2022, but before January 1, 2023, the Department shall
6 report its findings and recommendations to the General Assembly in accordance with §
7 2–1257 of the State Government Article.

8 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 July 1, 2021.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.