

# SENATE BILL 407

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EMERGENCY BILL

3lr2665  
CF 3lr2672

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By: **Senator Ready**

Introduced and read first time: February 1, 2023

Assigned to: Education, Energy, and the Environment

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## A BILL ENTITLED

1 AN ACT concerning

2 **Drinking Water – Innovative Potable Reuse Pilot Program – Establishment**

3 FOR the purpose of establishing the Innovative Potable Reuse Pilot Program in the  
4 Department of the Environment for the purpose of authorizing the regulated use of  
5 reclaimed water as a source for certain drinking water facilities; providing for the  
6 issuance of potable reuse permits under the Pilot Program; applying certain public  
7 participation requirements to potable reuse permits; and generally relating to the  
8 establishment of the Innovative Potable Reuse Pilot Program.

9 BY repealing and reenacting, with amendments,  
10 Article – Environment  
11 Section 1–601(a)  
12 Annotated Code of Maryland  
13 (2013 Replacement Volume and 2022 Supplement)

14 BY repealing and reenacting, without amendments,  
15 Article – Environment  
16 Section 9–301(a) and (f) and 9–401(l)  
17 Annotated Code of Maryland  
18 (2014 Replacement Volume and 2022 Supplement)

19 BY adding to  
20 Article – Environment  
21 Section 9–303.2  
22 Annotated Code of Maryland  
23 (2014 Replacement Volume and 2022 Supplement)

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

26 **Article – Environment**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 1-601.

2 (a) Permits issued by the Department under the following sections shall be issued  
3 in accordance with this subtitle:

4 (1) Air quality control permits to construct subject to § 2-404 of this article;

5 (2) Permits to install, materially alter, or materially extend landfill  
6 systems, incinerators for public use, or rubble landfills subject to § 9-209 of this article;

7 (3) Permits to discharge pollutants to waters of the State issued pursuant  
8 to § 9-323 of this article;

9 (4) Permits to install, materially alter, or materially extend a structure  
10 used for storage or distribution of any type of sewage sludge issued, renewed, or amended  
11 pursuant to § 9-234.1 or § 9-238 of this article;

12 (5) Permits to own, operate, establish, or maintain a controlled hazardous  
13 substance facility issued pursuant to § 7-232 of this article;

14 (6) Permits to own, operate, or maintain a hazardous material facility  
15 issued pursuant to § 7-103 of this article; [and]

16 (7) Permits to own, operate, establish, or maintain a low-level nuclear  
17 waste facility issued pursuant to § 7-233 of this article; AND

18 (8) **POTABLE REUSE PERMITS ISSUED IN ACCORDANCE WITH §**  
19 **9-303.2 OF THIS ARTICLE.**

20 9-301.

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

22 (f) "Reclaimed water" means sewage that:

23 (1) Has been treated to a high quality suitable for various reuses; and

24 (2) Has a concentration of less than:

25 (i) 3 fecal coliform colonies per 100 milliliters;

26 (ii) 10 milligrams per liter of 5-day biological oxygen demand; and

27 (iii) 10 milligrams per liter of total suspended solids.

1 **9-303.2.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
3 INDICATED.

4 (2) "DRINKING WATER TREATMENT FACILITY" MEANS A FACILITY  
5 THAT IS USED TO TREAT WATER IN A PUBLIC WATER SYSTEM.

6 (3) "ENVIRONMENTAL BUFFER" MEANS A RESERVOIR, BASIN,  
7 CONFINED AQUIFER, OR SIMILAR AREA, THE PURPOSE OF WHICH IS TO STORE OR  
8 IMPOUND SOURCE WATER FOR A DRINKING WATER TREATMENT FACILITY.

9 (4) "PFAS" MEANS PER- AND POLYFLUOROALKYL SUBSTANCES.

10 (5) "PILOT PROGRAM" MEANS THE INNOVATIVE POTABLE REUSE  
11 PILOT PROGRAM.

12 (6) "POTABLE REUSE PERMIT" MEANS A PERMIT ISSUED BY THE  
13 DEPARTMENT TO AUTHORIZE AND REGULATE A PROCESS TO USE RECLAIMED  
14 WATER AS A SOURCE FOR A DRINKING WATER TREATMENT FACILITY.

15 (7) "PUBLIC WATER SYSTEM" HAS THE MEANING STATED IN § 9-401  
16 OF THIS TITLE.

17 (B) THERE IS AN INNOVATIVE POTABLE REUSE PILOT PROGRAM IN THE  
18 DEPARTMENT.

19 (C) THE PURPOSE OF THE PILOT PROGRAM IS TO AUTHORIZE THE  
20 REGULATED USE OF RECLAIMED WATER AS A SOURCE FOR DRINKING WATER  
21 TREATMENT FACILITIES.

22 (D) THE DEPARTMENT MAY REVIEW, PERMIT, AND REGULATE A PROCESS  
23 TO USE RECLAIMED WATER AS A SOURCE FOR A DRINKING WATER TREATMENT  
24 FACILITY THROUGH A POTABLE REUSE PERMIT IF:

25 (1) THE DEPARTMENT DETERMINES THAT THE PROCESS WILL MEET  
26 OR SURPASS SAFE DRINKING WATER STANDARDS BEFORE WATER ENTERS THE  
27 DISTRIBUTION SYSTEM;

28 (2) THE RECLAIMED WATER IS STORED IN AN ENVIRONMENTAL  
29 BUFFER FOR A RESIDENCE TIME OF UP TO 90 DAYS, AS DETERMINED BY THE  
30 DEPARTMENT, BEFORE INTAKE INTO A DRINKING WATER TREATMENT FACILITY;

1           **(3) THE RECLAIMED WATER MEETS THE FOLLOWING**  
2 **REQUIREMENTS:**

3           **(I) PRIMARY AND SECONDARY MAXIMUM CONTAMINANT**  
4 **LEVELS ESTABLISHED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY UNDER**  
5 **40 C.F.R. §§ 141 AND 143 AND BY THE DEPARTMENT UNDER COMAR 26.04.01**  
6 **BEFORE ENTERING THE ENVIRONMENTAL BUFFER AND BEFORE ENTERING THE**  
7 **DISTRIBUTION SYSTEM;**

8           **(II) TREATMENT FOR REMOVAL OF PATHOGENS AT THE**  
9 **WASTEWATER TREATMENT STAGE AND THE DRINKING WATER TREATMENT STAGE**  
10 **THAT MEETS OR EXCEEDS:**

- 11                   1.    **12 LOG FOR ENTERIC VIRUS REDUCTION;**  
12                   2.    **10 LOG FOR GIARDIA CYST REDUCTION; AND**  
13                   3.    **10 LOG CRYPTOSPORIDIUM OOCYST REDUCTION; AND**

14           **(III) MAXIMUM CONCENTRATIONS OF PFAS CHEMICALS**  
15 **ESTABLISHED BY THE DEPARTMENT, BUT NOT TO EXCEED ANY MAXIMUM**  
16 **CONTAMINANT LEVELS ESTABLISHED BY THE U.S. ENVIRONMENTAL PROTECTION**  
17 **AGENCY IN A FINAL RULEMAKING UNDER THE FEDERAL SAFE DRINKING WATER**  
18 **ACT;**

19           **(4) THE RECLAIMED WATER UNDERGOES TESTING AND REPORTING**  
20 **TO VERIFY THAT THE REQUIREMENTS OF ITEM (3) OF THIS SUBSECTION ARE MET;**

21           **(5) THE PROCESS INCLUDES:**

22                   **(I) REVERSE OSMOSIS; AND**

23                   **(II) ULTRAVIOLET (UV) DISINFECTION AT THE DRINKING**  
24 **WATER TREATMENT FACILITY;**

25           **(6) EMERGENCY PROCEDURES ARE IN PLACE TO PROTECT AND**  
26 **ENSURE THE AVAILABILITY OF THE POTABLE WATER SUPPLY IF THERE IS ANY**  
27 **FAILURE TO MEET THE DEPARTMENT'S REQUIREMENTS;**

28           **(7) THE APPLICANT GIVES THE DEPARTMENT THE RIGHT OF ENTRY**  
29 **ON THE PERMIT SITE AT ANY REASONABLE TIME TO INSPECT OR INVESTIGATE FOR**  
30 **A VIOLATION OR ANY POTENTIAL VIOLATION OF THE POTABLE REUSE PERMIT;**

1           **(8) THE PROCESS INCLUDES APPROPRIATE RECORD-KEEPING**  
2 **REQUIREMENTS; AND**

3           **(9) THE PROCESS COMPLIES WITH ALL OTHER APPLICABLE**  
4 **STATUTORY AND REGULATORY REQUIREMENTS.**

5           **(E) THE DEPARTMENT MAY INCLUDE IN A POTABLE REUSE PERMIT ANY**  
6 **TERM, CONDITION, OR REQUIREMENT THAT THE DEPARTMENT DEEMS**  
7 **APPROPRIATE TO PROTECT PUBLIC HEALTH OR THE ENVIRONMENT.**

8           **(F) THE REQUIREMENTS OF A POTABLE REUSE PERMIT ARE**  
9 **SUPPLEMENTAL TO AND DO NOT OVERRIDE ANY OTHER STATUTE, REGULATION,**  
10 **PERMIT, ORDER, OR DECREE.**

11           **(G) THE PROVISIONS OF TITLE 1, SUBTITLE 6 OF THIS ARTICLE SHALL**  
12 **GOVERN THIS ISSUANCE OF POTABLE REUSE PERMITS.**

13           **(H) THE DEPARTMENT SHALL ACCEPT APPLICATIONS FOR POTABLE REUSE**  
14 **PERMITS FROM JULY 1, 2023, THROUGH JUNE 30, 2024, INCLUSIVE.**

15           **(I) A SUCCESSFUL APPLICATION FOR A POTABLE REUSE PERMIT SHALL:**

16               **(1) DEMONSTRATE TO THE SATISFACTION OF THE DEPARTMENT:**

17                       **(I) THE ABILITY TO COMPLY WITH THE REQUIREMENTS OF**  
18 **THIS SECTION;**

19                       **(II) THE AVAILABILITY OF FUNDS TO CONSTRUCT AND OPERATE**  
20 **ANY NECESSARY IMPROVEMENTS;**

21                       **(III) THE TECHNICAL AND ADMINISTRATIVE CAPACITY TO**  
22 **PERFORM THE PROCESS COVERED UNDER THE PERMIT; AND**

23                       **(IV) THAT ALL NECESSARY PLANNING AND ENGINEERING**  
24 **DESIGN IS COMPLETE; AND**

25               **(2) INCLUDE:**

26                       **(I) A COMPLETED FEASIBILITY STUDY; AND**

27                       **(II) ANY ADDITIONAL INFORMATION REQUESTED BY THE**  
28 **DEPARTMENT.**

1           **(J) THE DEPARTMENT MAY REFUSE TO ISSUE A POTABLE REUSE PERMIT IF:**

2                   **(1) THE APPLICANT FAILS TO PROVIDE ANY INFORMATION**  
3 **REQUESTED BY THE DEPARTMENT;**

4                   **(2) THE APPLICANT FAILS OR REFUSES TO ALLOW THE DEPARTMENT**  
5 **TO INSPECT THE PERMIT SITE;**

6                   **(3) THE DEPARTMENT FINDS THAT ISSUANCE OF THE PERMIT WOULD**  
7 **VIOLATE ANY STATE OR FEDERAL LAW OR ANY REGULATION ADOPTED UNDER ANY**  
8 **STATE OR FEDERAL LAW;**

9                   **(4) THE SOURCE OF THE RECLAIMED WATER FAILS TO COMPLY WITH**  
10 **ANY STATE OR FEDERAL LAW, ANY REGULATION ADOPTED UNDER ANY STATE OR**  
11 **FEDERAL LAW, OR ANY PERMIT; OR**

12                   **(5) THE APPLICANT FAILS TO DEMONSTRATE COMPLIANCE WITH**  
13 **THIS SECTION TO THE DEPARTMENT'S SATISFACTION.**

14           **(K) A POTABLE REUSE PERMIT SHALL BE EFFECTIVE FOR 5 YEARS FROM**  
15 **THE DATE OF ISSUANCE OR UNTIL TERMINATION OF THE PILOT PROGRAM,**  
16 **WHICHEVER OCCURS FIRST.**

17           **(L) BEFORE A POTABLE REUSE PERMIT EXPIRES, THE DEPARTMENT MAY**  
18 **RENEW THE POTABLE REUSE PERMIT:**

19                   **(1) AFTER ADMINISTRATIVE REVIEW IN ACCORDANCE WITH**  
20 **REGULATIONS THAT THE DEPARTMENT ADOPTS; AND**

21                   **(2) IN ACCORDANCE WITH TITLE 1, SUBTITLE 6 OF THIS ARTICLE.**

22           **(M) THE DEPARTMENT MAY REVOKE A POTABLE REUSE PERMIT ISSUED**  
23 **UNDER THIS SECTION IF THE DEPARTMENT FINDS THAT:**

24                   **(1) THE APPLICATION INCLUDED FALSE OR INACCURATE**  
25 **INFORMATION;**

26                   **(2) CONDITIONS OR REQUIREMENTS OF THE POTABLE REUSE PERMIT**  
27 **HAVE BEEN OR ARE ABOUT TO BE VIOLATED;**

28                   **(3) SUBSTANTIAL DEVIATION FROM PLANS, SPECIFICATIONS, OR**  
29 **REQUIREMENTS HAS OCCURRED OR IS ABOUT TO OCCUR;**

1           **(4) THE DEPARTMENT IS REFUSED ENTRY TO ANY PREMISES FOR**  
2 **THE PURPOSE OF INSPECTING THE PROCESS TO ENSURE COMPLIANCE WITH THE**  
3 **POTABLE REUSE PERMIT;**

4           **(5) A CHANGE IN CONDITIONS EXISTS THAT REQUIRES THE**  
5 **TEMPORARY OR PERMANENT REDUCTION OR ELIMINATION OF THE USE OF**  
6 **RECLAIMED WATER;**

7           **(6) THERE IS ANY NONCOMPLIANCE WITH A DISCHARGE PERMIT OR A**  
8 **PRETREATMENT REQUIREMENT THAT MAY AFFECT THE RECLAIMED WATER IN ANY**  
9 **MANNER;**

10           **(7) ANY STATE OR FEDERAL WATER QUALITY STANDARD OR**  
11 **EFFLUENT LIMITATION HAS BEEN OR IS THREATENED TO BE VIOLATED;**

12           **(8) ANY STATE OR FEDERAL REQUIREMENT ESTABLISHED UNDER**  
13 **THE FEDERAL SAFE DRINKING WATER ACT, SUBTITLE 4 OF THIS TITLE, OR TITLE**  
14 **12 OF THIS ARTICLE HAS BEEN OR IS THREATENED TO BE VIOLATED; OR**

15           **(9) THE RECLAIMED WATER MAY THREATEN PUBLIC HEALTH,**  
16 **SAFETY, COMFORT, OR THE ENVIRONMENT.**

17           **(N) ON OR BEFORE DECEMBER 31, 2024, THE DEPARTMENT SHALL REPORT**  
18 **TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE**  
19 **GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:**

20           **(1) THE STATUS OF THE PILOT PROGRAM;**

21           **(2) WHETHER THE PILOT PROGRAM SHOULD BE EXTENDED OR MADE**  
22 **PERMANENT; AND**

23           **(3) ANY STATUTORY OR REGULATORY CHANGES THAT THE**  
24 **DEPARTMENT RECOMMENDS TO PERMANENTLY AUTHORIZE THE REGULATED USE**  
25 **OF RECLAIMED WATER AS A SOURCE FOR DRINKING WATER TREATMENT FACILITIES,**  
26 **IF APPROPRIATE.**

27           **(O) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS**  
28 **SECTION.**

29 9-401.

30           (1) (1) “Public water system” means a system that:

31                   (i) Provides to the public water for human consumption through

1 pipes or other constructed conveyances; and

- 2 (ii) 1. Has at least 15 service connections; or  
3 2. Regularly serves at least 25 individuals.

4 (2) "Public water system" includes:

5 (i) Any collection, treatment, storage, or distribution facility that is  
6 under the control of the operator of the system and is used primarily in connection with the  
7 system; and

8 (ii) Any collection or pretreatment storage facility that is not under  
9 the control of the operator of the system and is used primarily in connection with the  
10 system.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
12 measure, is necessary for the immediate preservation of the public health or safety, has  
13 been passed by a ye and nay vote supported by three-fifths of all the members elected to  
14 each of the two Houses of the General Assembly, and shall take effect from the date it is  
15 enacted. It shall remain effective through June 30, 2028, and, at the end of June 30, 2028,  
16 this Act, with no further action required by the General Assembly, shall be abrogated and  
17 of no further force and effect.