

HOUSE BILL 852

M3, M1

11r0750
CF SB 634

By: **Delegates Mizeur, Holmes, Beidle, Bobo, Carr, Frick, Frush, Gilchrist, Glenn, Healey, Hubbard, Lafferty, Luedtke, McHale, A. Miller, Niemann, Pena-Melnyk, Reznik, B. Robinson, S. Robinson, Stein, and Wilson**

Introduced and read first time: February 11, 2011

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 20, 2011

CHAPTER _____

1 AN ACT concerning

2 **The Marcellus Shale Safe Drilling Act of 2011**

3 FOR the purpose of ~~prohibiting the Department of the Environment from issuing~~
4 ~~certain permits for the drilling of wells in the Marcellus Shale until certain~~
5 ~~conditions are met; requiring the Department to consult with the governing~~
6 ~~body of certain local governments in evaluating certain permits for the drilling~~
7 ~~of wells in the Marcellus Shale~~ requiring the Department of the Environment
8 and the Department of Natural Resources jointly to convene a certain Advisory
9 Commission; providing for the membership of the Advisory Commission;
10 requiring the Department of the Environment and the Department of Natural
11 Resources jointly to undertake a certain study in accordance with certain
12 requirements; requiring the Department of the Environment and the
13 Department of Natural Resources jointly to make a draft of a certain report
14 available under certain circumstances; requiring the Advisory Commission to
15 make certain recommendations; requiring the Department of the Environment
16 and the Department of Natural Resources jointly to publish a certain report in
17 accordance with certain requirements; prohibiting the Department of the
18 Environment from issuing a certain permit under certain circumstances;
19 requiring certain owners of a certain gas interest to file a certain notice with the
20 Department of the Environment in accordance with certain requirements;
21 requiring certain owners to pay to the Department of the Environment a certain
22 amount of money under certain circumstances; establishing certain grounds for

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 the denial of a certain permit, subject to a certain exception; requiring the
 2 Department of the Environment to deposit certain funds in the Oil and Gas
 3 Fund; requiring the Department of the Environment to make a certain refund
 4 under certain circumstances; authorizing certain funds to be deposited in the
 5 Oil and Gas Fund; requiring a certain amount of money to be used to pay for a
 6 certain study; authorizing the Department of the Environment to enter into
 7 certain agreements for goods and services under certain circumstances; defining
 8 certain terms; and generally relating to natural gas drilling in the Marcellus
 9 Shale.

10 BY repealing and reenacting, without amendments,
 11 Article – Environment
 12 Section 14–102 and 14–104
 13 Annotated Code of Maryland
 14 (2007 Replacement Volume and 2010 Supplement)

15 BY adding to
 16 Article – Environment
 17 Section 14–107.1 and 14–107.2
 18 Annotated Code of Maryland
 19 (2007 Replacement Volume and 2010 Supplement)

20 BY repealing and reenacting, with amendments,
 21 Article – Environment
 22 Section 14–122
 23 Annotated Code of Maryland
 24 (2007 Replacement Volume and 2010 Supplement)

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

27 **Article – Environment**

28 14–102.

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

30 (b) “Coalbed methane” means methane and any other gaseous substance
 31 occurring in or produced from a coal seam or related, associated, or adjacent rock
 32 materials.

33 (c) “County” includes Baltimore City unless otherwise indicated.

34 (d) “Department” means the Department of the Environment.

35 (e) “Field” means the general area underlaid by one or more pools.

1 (f) “Fund” means the Oil and Gas Fund.

2 (g) “Gas” means all natural gas and other fluid hydrocarbons, not defined as
3 oil, which are produced from a natural reservoir.

4 (h) “Oil” means crude petroleum oil and other hydrocarbons, regardless of
5 gravity, which are produced at the wellhead in liquid form, except liquid hydrocarbons
6 known as distillate or condensate recovered or extracted from gas.

7 (i) “Owner” means the person who has the right to drill into and produce
8 from a pool, or to store in a pool, and appropriate the oil or gas the person produces or
9 stores either for the person or others.

10 (j) “Person” means any individual, corporation, association, partnership,
11 receiver, trustee, executor, administrator, guardian, fiduciary, or other representative
12 of any kind.

13 (k) “Pool” means an underground reservoir containing a common
14 accumulation of oil, gas, or both.

15 (l) “Producer” means the owner of a well capable of producing oil, gas, or
16 both.

17 (m) “Product” means any commodity produced in its natural state by an oil or
18 gas well.

19 (n) (1) “Production” means the act or process of producing oil or gas from
20 a natural reservoir.

21 (2) “Production” does not include the sale or distribution of oil or gas.

22 (o) (1) “Underground storage” means the storing of gas or oil in a
23 geological stratum beneath the surface of the earth.

24 (2) “Underground storage” includes the injection of gas or oil into and
25 withdrawal from an underground storage reservoir and any other operation necessary
26 for or convenient to the storage of gas or of oil.

27 (p) “Underground storage reservoir” means the stratum and subsurface area
28 that are used or are to be used for or in connection with the underground storage of
29 gas or of oil.

30 14–104.

31 (a) A person may not drill any well for the exploration, production, or
32 underground storage of gas or oil in the State without obtaining a permit from the

1 Department of the Environment under the terms and conditions and on the forms the
2 Department prescribes.

3 (b) (1) The Department shall require an applicant to submit an
4 environmental assessment for the purpose of evaluating an application.

5 (2) The Department shall coordinate with the Department of Natural
6 Resources in its evaluation of the environmental assessment.

7 (c) The permit serves as the permit required under the provisions of Title 9,
8 Subtitle 13 of this article, dealing with well drillers.

9 (d) A person may not dispose of any product of a gas or oil well without the
10 necessary permits issued by the Department.

11 **14-107.1.**

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
13 MEANINGS INDICATED.

14 ~~(2) "CRITICAL HABITAT" MEANS HABITAT NECESSARY FOR THE~~
15 ~~SURVIVAL OF THREATENED OR ENDANGERED SPECIES OR SPECIES IN NEED OF~~
16 ~~CONSERVATION.~~

17 (2) "EPA HYDRAULIC FRACTURING RESEARCH STUDY" MEANS
18 THE STUDY BY THE OFFICE OF RESEARCH AND DEVELOPMENT AT THE U.S.
19 ENVIRONMENTAL PROTECTION AGENCY ON THE RELATIONSHIP BETWEEN
20 HYDRAULIC FRACTURING AND DRINKING WATER THAT MAY BE DEVELOPED AND
21 IMPLEMENTED BEGINNING IN 2011, WITH INITIAL RESEARCH PRODUCTS
22 AVAILABLE BY THE END OF 2012.

23 (3) "FLOW BACK" MEANS THE FRACTURING FLUIDS THAT
24 RETURN TO THE SURFACE AFTER A HYDRAULIC FRACTURE IS COMPLETED.

25 (4) "FRACTURING FLUIDS" MEANS A MIXTURE OF WATER,
26 PROPPANT, AND ADDITIVES USED TO HYDRAULICALLY INDUCE CRACKS IN A
27 GEOLOGIC FORMATION.

28 (5) "HYDRAULIC FRACTURING" MEANS INJECTING FRACTURING
29 FLUIDS INTO A TARGET FORMATION AT A FORCE EXCEEDING THE PARTING
30 PRESSURE OF THE ROCK, INDUCING FRACTURES THROUGH WHICH OIL OR
31 NATURAL GAS CAN FLOW TO THE WELLBORE.

32 (6) "MARCELLUS SHALE" MEANS A MIDDLE DEVONIAN-AGE
33 BLACK, LOW-DENSITY, CARBONACEOUS SHALE THAT:

1 (I) OCCURS THROUGHOUT THE ALLEGHENY PLATEAU
2 REGION OF THE NORTHERN APPALACHIAN BASIN; AND

3 (II) UNDERLIES PARTS OF GARRETT COUNTY, ALLEGANY
4 COUNTY, AND WASHINGTON COUNTY.

5 ~~(B) THE DEPARTMENT MAY NOT ISSUE A PERMIT FOR THE DRILLING OF
6 A WELL IN THE MARCELLUS SHALE UNTIL, IN ADDITION TO ANY OTHER
7 REQUIREMENT OF LAW, THE PERMIT APPLICANT DEMONSTRATES TO THE
8 SATISFACTION OF THE DEPARTMENT THAT:~~

9 ~~(1) A PLAN TO AVOID, MINIMIZE, AND OFFSET THE IMPACTS,
10 INCLUDING CUMULATIVE IMPACTS, OF DRILLING AND RELATED ACTIVITIES TO
11 WETLANDS, FORESTS, OR OTHER VITAL NATURAL RESOURCES, INCLUDING
12 FRAGMENTATION OF FORESTS AND CRITICAL HABITAT, HAS BEEN DEVELOPED
13 AND CAN BE IMPLEMENTED;~~

14 ~~(2) AN AGREEMENT HAS BEEN REACHED WITH EACH LOCAL
15 JURISDICTION IN THE STATE THROUGH WHICH HEAVY EQUIPMENT OR TRUCKS
16 MAY PASS, REGARDING:~~

17 ~~(I) TRAVEL ROUTES;~~

18 ~~(II) HOURS OF TRUCK TRAVEL; AND~~

19 ~~(III) RESPONSIBILITY FOR THE CONSTRUCTION,
20 MAINTENANCE, AND REPAIR OF ROADS AND BRIDGES;~~

21 ~~(3) THE DRILLING AND OPERATION OF WELLS WILL NOT IMPAIR
22 THE SUSTAINABILITY, WATER QUALITY, OR POTABILITY OF THE GROUNDWATER
23 AND SURFACE WATER IN THE WATERSHED OF THE PROPOSED PERMIT;~~

24 ~~(4) THE WATER USED FOR DRILLING AND HYDRAULIC
25 FRACTURING IS FROM A PUBLIC WATER SUPPLY THAT:~~

26 ~~(I) HAS SUFFICIENT CAPACITY UNDER ITS WATER
27 APPROPRIATION PERMIT; OR~~

28 ~~(II) SUBJECT TO APPROVAL OF THE DEPARTMENT, IS
29 RECLAIMED WATER;~~

30 ~~(5) THE FRACTURING FLUIDS USED FOR HYDRAULIC
31 FRACTURING CONTAIN ONLY PROPPANTS AND ADDITIVES THAT HAVE BEEN
32 APPROVED BY THE DEPARTMENT;~~

1 ~~(6) THE TREATMENT AND DISPOSAL OF FLOW BACK AND OTHER~~
2 ~~WASTEWATERS AND WASTES WILL OCCUR ONLY AT REGULATED FACILITIES;~~

3 ~~(7) THE PERMIT APPLICANT WILL IMPLEMENT A MONITORING~~
4 ~~PROGRAM, APPROVED BY THE DEPARTMENT, TO:~~

5 ~~(I) ESTABLISH A BASELINE OF WATER QUALITY FOR~~
6 ~~GROUNDWATER AND SURFACE WATER PRIOR TO THE DRILLING AND INITIAL~~
7 ~~HYDRAULIC FRACTURING; AND~~

8 ~~(II) TEST THE GROUNDWATER AND SURFACE WATER~~
9 ~~PERIODICALLY TO DETERMINE WHETHER DRILLING AND HYDRAULIC~~
10 ~~FRACTURING HAVE AFFECTED THE GROUNDWATER AND SURFACE WATER;~~

11 ~~(8) A PLAN FOR EMERGENCY RESPONSE FOR THE PROPOSED SITE~~
12 ~~AREA:~~

13 ~~(I) HAS BEEN DEVELOPED;~~

14 ~~(II) CAN BE IMPLEMENTED; AND~~

15 ~~(III) INCLUDES:~~

16 ~~1. A DESCRIPTION OF THE PERMIT APPLICANT'S~~
17 ~~EMERGENCY RESPONSE CAPABILITY AND RESPONSE TIME; AND~~

18 ~~2. ASSURANCE THAT LOCAL EMERGENCY~~
19 ~~RESPONDERS HAVE BEEN TRAINED AND HAVE APPROPRIATE PROTECTIVE GEAR~~
20 ~~AND EQUIPMENT TO ATTEND TO THE INJURED AND SECURE THE SITE UNTIL THE~~
21 ~~PERMIT APPLICANT'S EMERGENCY RESPONSE UNIT ARRIVES; AND~~

22 ~~(9) THE PERMIT APPLICANT HAS ENVIRONMENTAL IMPAIRMENT~~
23 ~~LIABILITY INSURANCE, APPROVED BY THE DEPARTMENT, THAT IS SUFFICIENT~~
24 ~~TO REMEDIATE ON AND OFF SITE CONTAMINATION, BODILY INJURY,~~
25 ~~PROPERTY DAMAGE, AND OTHER LONG TERM POLLUTION PROBLEMS CAUSED~~
26 ~~BY DRILLING AND RELATED ACTIVITIES.~~

27 ~~(C) IN EVALUATING A PERMIT FOR THE DRILLING OF A WELL IN THE~~
28 ~~MARCELLUS SHALE, THE DEPARTMENT SHALL CONSULT WITH THE GOVERNING~~
29 ~~BODY OF THE COUNTY AND, IF APPLICABLE, MUNICIPAL CORPORATION IN~~
30 ~~WHICH THE PROPOSED WELL IS LOCATED.~~

31 (B) THE DEPARTMENT AND THE DEPARTMENT OF NATURAL
32 RESOURCES JOINTLY SHALL CONVENE AN ADVISORY COMMISSION THAT SHALL
33 INCLUDE REPRESENTATIVES OF LOCAL GOVERNMENTS, THE SCIENCE AND

1 ENGINEERING COMMUNITIES, INDUSTRY GROUPS, ENVIRONMENTAL
2 ORGANIZATIONS, BUSINESSES AND PRIVATE CITIZENS WHO RESIDE IN THE
3 WESTERN MARYLAND REGION, AND ANY OTHER STATE AGENCIES OR OTHER
4 PERSONS THE AGENCIES DETERMINE NECESSARY.

5 (C) (1) THE DEPARTMENT AND THE DEPARTMENT OF NATURAL
6 RESOURCES JOINTLY SHALL UNDERTAKE A STUDY OF THE EXTRACTION OF
7 NATURAL GAS FROM SHALE FORMATIONS IN THE STATE, INCLUDING THE
8 MARCELLUS SHALE FORMATION.

9 (2) IN DESIGNING AND UNDERTAKING THE STUDY, THE
10 DEPARTMENT AND THE DEPARTMENT OF NATURAL RESOURCES JOINTLY
11 SHALL CONSULT, AS APPROPRIATE, OTHER STATE AGENCIES, OTHER STATES IN
12 THE REGION, AND FEDERAL AGENCIES.

13 (3) THE STUDY SHALL INCLUDE A REVIEW OF THE RESULTS OF
14 THE EPA HYDRAULIC FRACTURING RESEARCH STUDY, ENVIRONMENTAL
15 IMPACT STATEMENTS OF THE STATE OF NEW YORK, THE DELAWARE RIVER
16 BASIN COMMISSION, AND OTHER AVAILABLE STUDIES OF POTENTIAL IMPACTS
17 TO THE PUBLIC HEALTH, SAFETY, ENVIRONMENT, OR NATURAL RESOURCES.

18 (4) THE STUDY SHALL ADDRESS:

19 (I) THE RISK OF CONTAMINATION OF GROUNDWATER AND
20 SURFACE WATER BY FRACTURING FLUIDS AND GAS;

21 (II) THE RISKS OF CONTAMINATION OF, OR NEGATIVE
22 IMPACTS TO, WATER AND OTHER NATURAL RESOURCES FROM THE
23 TRANSPORTATION, STORAGE, AND HANDLING OF LIQUIDS, INCLUDING
24 FRACTURING FLUIDS;

25 (III) THE RISKS OF CONTAMINATION OR NEGATIVE IMPACTS
26 TO WATER AND OTHER NATURAL RESOURCES FROM THE HANDLING AND
27 DISPOSAL OF FLOW BACK AND OTHER WASTEWATER AND WASTES;

28 (IV) THE LONG-TERM AVAILABILITY OF WATER RESOURCES
29 TO SUPPORT HYDRAULIC FRACTURING ACTIVITIES;

30 (V) INCREASED FOREST AND HABITAT FRAGMENTATION
31 AND OTHER ENVIRONMENTAL IMPACTS DUE TO THE CONSTRUCTION OF
32 DRILLING PLATFORMS, GATHERING LINES, TRANSMISSION PIPELINES, AND
33 OTHER NECESSARY INFRASTRUCTURE;

34 (VI) INCREASED RISKS OF TRAFFIC ACCIDENTS AND
35 DAMAGE TO ROADS AND BRIDGES FROM TRUCK TRAFFIC;

1 (VII) LONG-TERM IMPACTS TO LOCAL LAND USE PATTERNS
2 AND THE CHARACTER OF RURAL AREAS AND TOWNS;

3 (VIII) THE ADEQUACY OF LOCAL EMERGENCY RESPONSE
4 CAPABILITIES;

5 (IX) IMPACTS TO STATE RESOURCES AND RECREATION
6 LANDS;

7 (X) THE PROJECTED POSITIVE AND NEGATIVE ECONOMIC
8 IMPACT OF HYDRAULIC FRACTURING ACTIVITIES TO THE REGION AND THE
9 STATE;

10 (XI) THE DESIRABILITY OF ENACTING A STATE-LEVEL
11 SEVERANCE TAX TO GENERATE REVENUES FOR RESEARCH, REMEDIATION, AND
12 OTHER ACTIVITIES RELATING TO HYDRAULIC FRACTURING;

13 (XII) THE ESTABLISHMENT OF AN INDUSTRY-FUNDED
14 ESCROW ACCOUNT TO FUND THE COST OF REMEDIATION AND REGULATORY
15 ENFORCEMENT;

16 (XIII) THE AVAILABLE METHODS FOR DISPOSAL OF FLOW
17 BACK AND OTHER WASTEWATER AND WASTES CONTAINING RADIOACTIVE
18 MATERIALS;

19 (XIV) WELL CONSTRUCTION STANDARDS, INCLUDING
20 CONSTRUCTION METHODS AND MATERIALS USED; AND

21 (XV) ANY OTHER ISSUES IDENTIFIED BY THE ADVISORY
22 COMMISSION.

23 (D) THE DEPARTMENT AND THE DEPARTMENT OF NATURAL
24 RESOURCES JOINTLY SHALL MAKE A DRAFT REPORT BASED ON THE STUDY
25 REQUIRED UNDER SUBSECTION (C) OF THIS SECTION:

26 (1) PUBLICLY AVAILABLE; AND

27 (2) OPEN TO PUBLIC COMMENT ON THE REPORT BEFORE ITS
28 FINAL PUBLICATION.

29 (E) THE ADVISORY COMMISSION SHALL MAKE RECOMMENDATIONS TO
30 THE DEPARTMENT AND THE DEPARTMENT OF NATURAL RESOURCES ON:

1 (1) CONDITIONS THAT SHOULD BE INCLUDED IN PERMITS FOR
2 HYDRAULIC FRACTURING IN THE MARCELLUS SHALE; AND

3 (2) APPROPRIATE CHANGES, IF ANY, THAT SHOULD BE MADE TO
4 STATE LAW AND REGULATIONS GOVERNING HYDRAULIC FRACTURING IN THE
5 MARCELLUS SHALE.

6 (F) ON OR BEFORE AUGUST 1, 2013, THE DEPARTMENT AND THE
7 DEPARTMENT OF NATURAL RESOURCES JOINTLY SHALL PUBLISH A FINAL
8 REPORT, INCLUDING FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS, IF
9 ANY, FOR STATUTORY OR REGULATORY CHANGES, IN ACCORDANCE WITH §
10 2-1246 OF THE STATE GOVERNMENT ARTICLE.

11 (G) NOTWITHSTANDING THE PROVISIONS OF §§ 5-204 AND 14-105 OF
12 THIS ARTICLE, UNTIL THE PUBLICATION OF THE FINAL REPORT, THE
13 DEPARTMENT MAY NOT ISSUE A PERMIT UNDER § 14-104 OF THIS TITLE FOR
14 WELL DRILLING THAT MAY INVOLVE THE HYDRAULIC FRACTURING OF A
15 FORMATION:

16 (1) UNLESS INFORMATION BECOMES AVAILABLE DURING THE
17 COURSE OF THE STUDY SUFFICIENT TO DEMONSTRATE THAT THE EXTRACTION
18 OF NATURAL GAS FROM SHALE FORMATIONS IN THE STATE CAN BE
19 ACCOMPLISHED WITHOUT ADVERSE IMPACT TO HUMAN HEALTH, NATURAL
20 RESOURCES, OR THE ENVIRONMENT; AND

21 (2) UNTIL AT LEAST 45 DAYS AFTER THE DEPARTMENT NOTIFIES
22 THE GENERAL ASSEMBLY OF ITS INTENTION TO ISSUE SUCH A PERMIT.

23 14-107.2.

24 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
25 MEANINGS INDICATED.

26 (2) "GAS INTEREST" MEANS THE RIGHT TO EXPLORE FOR GAS ON,
27 OR PRODUCE GAS FROM, REAL PROPERTY.

28 (3) "INTEREST" DOES NOT INCLUDE A FEE SIMPLE INTEREST IN
29 THE SURFACE RIGHTS OF REAL PROPERTY REGARDLESS OF WHETHER THE FEE
30 INTEREST INCLUDES THE MINERAL RIGHTS.

31 (B) ON OR BEFORE JULY 1, 2011, OR WITHIN 30 DAYS AFTER
32 ACQUIRING THE GAS INTEREST, WHICHEVER IS LATER, AN OWNER THAT
33 ACQUIRES A GAS INTEREST IN REAL PROPERTY IN GARRETT COUNTY OR
34 ALLEGANY COUNTY AFTER JANUARY 1, 2007, FOR THE PURPOSE OF DRILLING
35 FOR NATURAL GAS SHALL FILE A NOTICE WITH THE DEPARTMENT IDENTIFYING:

1 **(1) EACH PARCEL, BY PARCEL NUMBER OR OTHER LEGAL**
2 **DESCRIPTION, ON WHICH THE OWNER HAS A GAS INTEREST IN GARRETT**
3 **COUNTY OR ALLEGANY COUNTY;**

4 **(2) A STATEMENT OF THE TOTAL ACREAGE OF THOSE PARCELS;**
5 **AND**

6 **(3) A MAP SHOWING THOSE PARCELS.**

7 **(C) (1) ON OR BEFORE AUGUST 1, 2011, OR WITHIN 30 DAYS AFTER**
8 **NOTIFICATION BY THE DEPARTMENT, WHICHEVER IS LATER, EACH OWNER**
9 **THAT FILES A NOTICE UNDER SUBSECTION (B) OF THIS SECTION SHALL PAY TO**
10 **THE DEPARTMENT, AS A FEE FOR CALENDAR YEAR 2011, AN AMOUNT EQUAL TO**
11 **\$10 PER ACRE OF THE TOTAL ACREAGE REPORTED.**

12 **(2) ON OR BEFORE AUGUST 1, 2012, OR WITHIN 30 DAYS AFTER**
13 **NOTIFICATION BY THE DEPARTMENT, WHICHEVER IS LATER, EACH OWNER**
14 **THAT FILES A NOTICE UNDER SUBSECTION (B) OF THIS SECTION SHALL PAY TO**
15 **THE DEPARTMENT, AS A FEE FOR CALENDAR YEAR 2012, AN AMOUNT EQUAL TO**
16 **\$10 PER ACRE OF THE TOTAL ACREAGE REPORTED.**

17 **(3) EXCEPT AS PROVIDED IN SUBSECTION (G)(3) OF THIS**
18 **SECTION, A FEE MAY NOT BE ASSESSED UNDER THIS SECTION AFTER CALENDAR**
19 **YEAR 2012.**

20 **(D) (1) THIS SUBSECTION DOES NOT APPLY TO AN OWNER THAT**
21 **DEMONSTRATES, TO THE SATISFACTION OF THE DEPARTMENT, GOOD CAUSE**
22 **FOR THE FAILURE TO MEET THE REQUIREMENTS UNDER SUBSECTIONS (B) AND**
23 **(C) OF THIS SECTION.**

24 **(2) FAILURE TO FILE THE NOTICE REQUIRED UNDER SUBSECTION**
25 **(B) OF THIS SECTION WHEN DUE, OR FAILURE TO PAY THE AMOUNTS REQUIRED**
26 **UNDER SUBSECTION (C) OF THIS SECTION WHEN DUE, MAY BE GROUNDS FOR**
27 **DENIAL OF A PERMIT TO EXPLORE FOR OR PRODUCE GAS FROM FORMATIONS**
28 **UNDER THE PARCEL.**

29 **(E) AN OWNER MAY NOT PASS THE PAYMENT OF COSTS REQUIRED**
30 **UNDER SUBSECTION (C) OF THIS SECTION THROUGH TO, OR RECOVER THEM**
31 **FROM, THE PERSON WHO OWNS THE SURFACE RIGHTS OF THE PROPERTY.**

32 **(F) THE DEPARTMENT SHALL DEPOSIT THE MONEY COLLECTED UNDER**
33 **THIS SECTION IN THE OIL AND GAS FUND.**

1 (G) (1) ON ISSUANCE OF THE FINAL REPORT DESCRIBED IN §
 2 14-107.1 OF THIS SUBTITLE, THE DEPARTMENT SHALL COMPARE THE ACTUAL
 3 COSTS OF THE STUDY WITH THE MONEY PAID BY PERSONS THAT FILE A NOTICE
 4 UNDER SUBSECTION (B) OF THIS SECTION.

5 (2) IF THE ACTUAL COST OF THE STUDY IS LESS THAN THE
 6 AMOUNT PAID UNDER SUBSECTION (C) OF THIS SECTION, THE DEPARTMENT
 7 SHALL REFUND THE DIFFERENCE, PRORATED BY ACREAGE, TO THE OWNERS
 8 WHO PAID A FEE.

9 (3) IF THE ACTUAL COST OF THE STUDY IS MORE THAN THE
 10 AMOUNT PAID UNDER SUBSECTION (C) OF THIS SECTION, EACH OWNER THAT
 11 FILED A NOTICE UNDER SUBSECTION (B) OF THIS SECTION SHALL PAY, WITHIN
 12 ~~30~~ 90 DAYS AFTER NOTIFICATION BY THE DEPARTMENT, AN AMOUNT
 13 DETERMINED BY THE DEPARTMENT, PRORATED BY ACREAGE, TO FULLY FUND
 14 THE COST OF THE STUDY.

15 14-122.

16 (a) There is an Oil and Gas Fund.

17 (b) The Fund consists of:

18 (1) Fees collected by the Department under § 14-105 of this subtitle;

19 (2) MONEY COLLECTED BY THE DEPARTMENT UNDER § 14-107.2
 20 OF THIS SUBTITLE;

21 [(2)] (3) Funds appropriated by the General Assembly for deposit to
 22 the Fund;

23 [(3)] (4) Fines and bond forfeitures collected by the Department in
 24 accordance with this subtitle that exceed the amount necessary to restore a site; and

25 [(4)] (5) Any additional money made available from any sources,
 26 public or private, for the purposes for which the Fund has been established.

27 (c) (1) The Fund is a special, nonlapsing fund that is not subject to §
 28 7-302 of the State Finance and Procurement Article.

29 (2) Notwithstanding any law to the contrary, unused money in the
 30 Fund may not revert to the General Fund.

31 (d) The Fund shall be maintained and administered by the Department in
 32 accordance with the provisions of this subtitle and any regulations the Department
 33 adopts.

1 **(E) EXCEPT AS PROVIDED IN § 14-107.2(G)(2) OF THIS SUBTITLE, ANY**
2 **MONEY DEPOSITED IN THE FUND UNDER § 14-107.2 OF THIS SUBTITLE SHALL**
3 **BE USED BY THE DEPARTMENT TO PAY FOR THE STUDY REQUIRED UNDER §**
4 **14-107.1 OF THIS SUBTITLE.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding §
6 13-107 of the State Finance and Procurement Article, the Department of the
7 Environment may enter into sole source agreements for goods or services in order to
8 expedite completion of the study required under § 14-107.1 of the Environment
9 Article, as enacted by Section 1 of this Act.

10 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
11 effect June 1, 2011.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.