

HOUSE BILL 125

M3

EMERGENCY BILL
ENROLLED BILL

(71r0060)

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

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

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 – Emergency Action Plans for Dams**

3 FOR the purpose of requiring owners of certain dams to prepare and submit to the
4 Department of the Environment an emergency action plan that contains certain
5 information in a certain manner; requiring the Department's approval of an
6 emergency action plan; requiring owners of certain dams to provide a copy of a
7 certain emergency action plan to certain agencies; requiring owners of certain dams
8 to update an emergency action plan on an annual basis; requiring owners of certain
9 dams to perform certain tests of an emergency action plan on a certain schedule;
10 requiring the results of certain tests to be reported in a certain annual update that is
11 submitted in the same year; authorizing the Department to adopt regulations;
12 providing for the application of this Act; ~~authorizing, instead of requiring, the~~
13 Department to charge a certain owner for certain expenses under certain
14 circumstances; establishing the intent of the General Assembly to require the

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.



Department to work with certain owners and consider establishing a certain dam safety repair and removal program under certain circumstances; making this Act an emergency measure; and generally relating to emergency action plans for dams.

BY adding to

Article – Environment

Section 5–503.1

Annotated Code of Maryland

(2013 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 5–509

Annotated Code of Maryland

(2013 Replacement Volume and 2016 Supplement)

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

Article – Environment

5–503.1.

(A) (1) THIS SECTION APPLIES TO ANY DAM THAT:

~~(1)~~ (I) HAS THE POTENTIAL TO CAUSE THE LOSS OF HUMAN LIFE
OR SUBSTANTIAL PROPERTY DAMAGE IN THE EVENT OF STRUCTURAL FAILURE; AND

~~(2)~~ (II) HAS BEEN DESIGNATED OR VERIFIED BY THE DEPARTMENT
AS A HIGH HAZARD OR SIGNIFICANT HAZARD DAM, AS DEFINED IN THE
CLASSIFICATION OF DAMS UNDER REGULATIONS ADOPTED BY THE DEPARTMENT.

(2) THIS SECTION DOES NOT APPLY TO A DAM THAT IS LICENSED BY,
AND SUBJECT TO THE JURISDICTION OF, THE FEDERAL ENERGY REGULATORY
COMMISSION IF THE OWNER OF THE DAM SUBMITS TO THE DEPARTMENT:

(I) ON OR BEFORE AUGUST 1, 2017, A COPY OF THE EXISTING
EMERGENCY ACTION PLAN FOR THE DAM; AND

(II) WITHIN 30 DAYS AFTER FILING WITH THE FEDERAL
ENERGY REGULATORY COMMISSION ANY UPDATE TO THE EMERGENCY ACTION
PLAN, A COPY OF THE UPDATE TO THE EMERGENCY ACTION PLAN.

(B) (1) AN OWNER OF A DAM SUBJECT TO THIS SECTION SHALL PREPARE
AND SUBMIT TO THE DEPARTMENT FOR APPROVAL AN EMERGENCY ACTION PLAN IN

1 ACCORDANCE WITH THIS SECTION TO PROTECT DOWNSTREAM HUMAN LIFE AND
2 SAFEGUARD PROPERTY IN THE EVENT OF A STRUCTURAL FAILURE OR ANY OTHER
3 EMERGENCY.

4 (2) AN OWNER OF AN EXISTING DAM SUBJECT TO THIS SECTION
5 SHALL SUBMIT A PLAN TO THE DEPARTMENT FOR APPROVAL ON OR BEFORE
6 AUGUST 1, 2017.

7 (3) A PERSON PROPOSING TO CONSTRUCT A DAM SUBJECT TO THIS
8 SECTION SHALL SUBMIT A PLAN WITH AN APPLICATION FOR A PERMIT TO
9 CONSTRUCT THE DAM UNDER § 5-503 OF THIS SUBTITLE.

10 (C) AN EMERGENCY ACTION PLAN SHALL CONTAIN:

11 (1) A DESCRIPTION OF THE DAM, INCLUDING ITS HAZARD
12 CLASSIFICATION;

13 (2) MAPS OR OTHER GRAPHIC REPRESENTATIONS OF AREAS
14 DOWNSTREAM THAT HAVE THE POTENTIAL TO BE AFFECTED BY A STRUCTURAL
15 FAILURE OR ANY OTHER EMERGENCY;

16 (3) A LIST OF AGENCIES AND INDIVIDUALS RESPONSIBLE FOR
17 MONITORING WEATHER AND OPERATING CONDITIONS AT THE DAM DURING
18 EMERGENCIES;

19 (4) DETAILED OPERATING PROCEDURES FOR MAKING DECISIONS
20 AND TAKING ACTIONS TO PROTECT LIVES AND PROPERTY IN AREAS DOWNSTREAM
21 FROM THE DAM IN THE EVENT OF AN EMERGENCY;

22 (5) PROCEDURES FOR NOTIFYING JURISDICTIONS, BUSINESSES, AND
23 PERSONS WHO HAVE THE POTENTIAL TO BE AFFECTED BY A DAM FAILURE OR ANY
24 OTHER EMERGENCY;

25 (6) A LIST OF EMERGENCY MANAGEMENT RESOURCES AND
26 EQUIPMENT THAT COULD BE NEEDED IN THE EVENT OF AN EMERGENCY; AND

27 (7) ANY ADDITIONAL INFORMATION REQUIRED BY THE
28 DEPARTMENT.

29 (D) ON APPROVAL OF THE EMERGENCY ACTION PLAN BY THE
30 DEPARTMENT, THE DAM OWNER SHALL PROVIDE COPIES OF THE PLAN TO
31 APPROPRIATE STATE AND LOCAL EMERGENCY MANAGEMENT AGENCIES.

(E) EMERGENCY ACTION PLANS SHALL BE UPDATED ANNUALLY AND SUBMITTED TO THE DEPARTMENT FOR APPROVAL ON OR BEFORE MAY 1 EACH YEAR.

(F) (1) AN OWNER OF A DAM SUBJECT TO THIS SECTION SHALL CONDUCT A FUNCTIONAL EXERCISE OR TEST OF THE APPROVED EMERGENCY ACTION PLAN AT LEAST ONCE EVERY 5 YEARS.

(2) THE RESULTS OF THE FUNCTIONAL EXERCISE OR TEST REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE REPORTED IN THE ANNUAL UPDATE TO THE EMERGENCY ACTION PLAN THAT IS SUBMITTED IN THE SAME YEAR.

(G) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

5-509.

(a) On complaint or the Department's own initiative, the Department may investigate or examine any reservoir, dam, or similar waterway construction. If the Department determines that the reservoir, dam, or similar waterway construction is unsafe, needs repair, or should be removed because the reservoir, dam, or similar waterway construction is unsafe and not repairable, the Department shall notify the owner in writing to repair or remove the object, as the situation warrants. The repair or removal work shall be completed within a reasonable time, which time shall be prescribed in the Department's notice.

(b) If the work is not completed in the time prescribed in the notice[.];

(1) [the] THE Department may have the work completed at the expense of the owner[.];

(2) [The] UNLESS THE OWNER DEMONSTRATES AN INABILITY TO PAY, AS DETERMINED BY THE DEPARTMENT, THE Department shall charge the owner for [this] THE expense TO COMPLETE THE WORK[.]; and

(3) [if] IF [the] repayment is not made within 30 days after written demand, the Department may bring an action in the proper court to recover [this] THE expense TO COMPLETE THE WORK.

(c) This section does not apply to farm ponds used for agricultural purposes.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that, if the Department of the Environment determines that a reservoir, dam, or similar waterway construction is unsafe, needs repair, or should be removed because the reservoir, dam, or similar waterway construction is unsafe and not repairable and the owner

of the reservoir, dam, or similar waterway construction demonstrates an inability to pay for the work the Department determines is needed, the Department shall:

(1) work with the owner to pursue cost-effective market-based solutions such as nutrient and sediment credit generation that address the needed work; and

(2) consider establishing a dam safety repair and removal program to assist an owner of a reservoir, dam, or similar waterway construction in funding the needed work.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect July 1, 2017~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.