

SENATE BILL 113

M3, J2

2lr1130

(PRE-FILED)

By: **Senator Hester**

Requested: November 1, 2021

Introduced and read first time: January 12, 2022

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Environmental Health Specialists and On-Site Sewage Disposal Systems –**
3 **Transfer of Responsibilities and Standards, Regulations, Applications, and**
4 **Plans**

5 FOR the purpose of transferring certain responsibilities and standards, regulations,
6 applications, and plans governing environmental health specialists, and the Board
7 of Environmental Health Specialists, from the Maryland Department of Health to
8 the Department of the Environment; requiring the Department of the Environment
9 to take certain actions regarding applications and plans for the installation of
10 on-site sewage disposal systems; requiring that an application for the installation of
11 an on-site sewage disposal system be approved or denied within a certain number of
12 months; requiring the approving authority for an application for the installation of
13 an on-site sewage disposal system to provide certain information to an applicant
14 under certain circumstances; requiring the Department of the Environment to
15 promote certain standards and regulations, develop certain statewide standards, and
16 host certain informational meetings; requiring the Department of the Environment
17 to adopt regulations on or before a certain date establishing that a certain
18 requirement regarding subsurface disposal of sewage applies to detached dwellings;
19 and generally relating to environmental health specialists and on-site sewage
20 disposal systems.

21 BY transferring

22 Article – Health Occupations

23 Section 21–101 through 21–502, respectively, and the title “Title 21. Environmental
24 Health Specialists”

25 Annotated Code of Maryland
26 (2021 Replacement Volume)

27 to be

28 Article – Environment

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 11–101 through 11–502, respectively, and the title “Title 11. Environmental Health Specialists”
Annotated Code of Maryland
(2014 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 1–406
Annotated Code of Maryland
(2013 Replacement Volume and 2021 Supplement)

BY adding to
Article – Environment
Section 9–1114 and 11–103
Annotated Code of Maryland
(2014 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 11–101, 11–202(a), 11–301, 11–302, 11–306(b), 11–312(b), 11–313(a),
11–314, and 11–402
Annotated Code of Maryland
(2014 Replacement Volume and 2021 Supplement)
(As enacted by Section 1 of this Act)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That Section(s) 21–101 through 21–502, respectively, and the title “Title 21. Environmental Health Specialists” of Article – Health Occupations of the Annotated Code of Maryland be transferred to be Section(s) 11–101 through 11–502, respectively, and the title “Title 11. Environmental Health Specialists” of Article – Environment of the Annotated Code of Maryland.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Environment

1–406.

The following units, among other units, are included in the Department:

- (1) Air Quality Control Advisory Council;
- (2) Hazardous Substances Advisory Council;
- (3) Radiation Control Advisory Board;

- (4) Science and Health Advisory Group;
- (5) Board of Waterworks and Waste System Operators;
- (6) Board of Well Drillers;
- (7) Hazardous Waste Facilities Siting Board; [and]
- (8) Marine Contractors Licensing Board; AND
- (9) BOARD OF ENVIRONMENTAL HEALTH SPECIALISTS.**

9-1114.

(A) THE DEPARTMENT SHALL:

(1) CREATE A SYSTEM FOR TRACKING ONLINE THE STATUS OF AN APPLICATION FOR THE INSTALLATION OF AND ASSOCIATED PERMITS FOR AN ON-SITE SEWAGE DISPOSAL SYSTEM;

(2) PROVIDE INCENTIVES TO ENCOURAGE TIMELY COMPLETION OF THE REVIEW AND APPROVAL OF PLANS FOR THE INSTALLATION OF ON-SITE SEWAGE DISPOSAL SYSTEMS; AND

(3) DEVELOP AND MAKE AVAILABLE STANDARDIZED PERMIT FORMS FOR THE INSTALLATION OF ON-SITE SEWAGE DISPOSAL SYSTEMS.

(B) (1) AN APPLICATION FOR THE INSTALLATION OF AN ON-SITE SEWAGE DISPOSAL SYSTEM SHALL BE APPROVED OR DENIED WITHIN 2 MONTHS AFTER RECEIPT BY THE APPROVING AUTHORITY.

(2) IF AN APPLICATION FOR THE INSTALLATION OF AN ON-SITE SEWAGE DISPOSAL SYSTEM IS DENIED, THE APPROVING AUTHORITY SHALL PROVIDE THE APPLICANT WITH INFORMATION ON HOW TO APPEAL THE DECISION.

11-101.

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

(b) “Board” means the State Board of Environmental Health Specialists.

(c) “Environmental health specialist” means an individual who practices as an environmental health specialist.

(d) “Environmental health specialist-in-training” means an individual who meets the educational qualifications required under this title but has not yet completed the environmental health specialist-in-training program required under [§ 21-305] **§ 11-305** of this title.

(e) “Environmental health specialist-in-training program” means a program of training and experience under the supervision of a licensed environmental health specialist or other individual acceptable to the Board.

(f) “Hours of approved training” means the value given to participation in continuing education or experience as approved by the Board.

(g) “License” means, unless the context requires otherwise, a license issued by the Board to practice as an environmental health specialist.

(h) “Licensed environmental health specialist” means an individual licensed by the Board to practice as an environmental health specialist.

(i) “Practice as an environmental health specialist” means, as a major component of employment, to apply academic principles, methods and procedures of the environmental, physical, biological, and health sciences to the inspections and investigations necessary to collect and analyze data and to make decisions necessary to secure compliance with federal, State, and local health and environmental laws and regulations specifically relating to control of the public health aspects of the environment including:

- (1) The manufacture, preparation, handling, distribution, or sale of food and milk;
- (2) Water supply and treatment;
- (3) Wastewater treatment and disposal;
- (4) Solid waste management and disposal;
- (5) Vector control;
- (6) Insect and rodent control;
- (7) Air quality;
- (8) Noise control;
- (9) Product safety;
- (10) Recreational sanitation; and

(11) Institutional and residential sanitation.

11-103.

THE DEPARTMENT SHALL:

(1) PROMOTE CONSISTENT STANDARDS AND REGULATIONS UNDER THIS TITLE;

(2) DEVELOP AND MAKE AVAILABLE STATEWIDE STANDARDS FOR PRIVATE ENVIRONMENTAL HEALTH SPECIALISTS WHO WORK WITH ON-SITE SEWAGE DISPOSAL SYSTEMS; AND

(3) HOST MONTHLY INFORMATIONAL MEETINGS ON THE INTERPRETATION AND APPLICATION OF THIS TITLE AND CORRESPONDING REGULATIONS FOR LOCAL GOVERNMENT EMPLOYEES WHO ARE OR WORK WITH ENVIRONMENTAL HEALTH SPECIALISTS.

11-202.

(a) (1) The Board consists of 9 members appointed by the Governor with the advice of the Secretary, and with the advice and consent of the Senate.

(2) Of the 9 Board members:

(i) 7 shall be licensed environmental health specialists appointed as follows:

1. 1 shall be employed by private industry;

2. 1 shall be employed by the Department [of the Environment];

3. 1 shall be employed by the **MARYLAND** Department **OF HEALTH**;

4. 1 shall be employed by a local health department and be employed under the State Personnel Management System;

5. 1 shall be employed by a local government and not be employed under the State Personnel Management System; and

6. 2 shall be appointed at large; and

(ii) 2 shall be consumer members.

(3) All Board members shall be residents of the State.

11-301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice as an environmental health specialist in this State.

(b) This section does not apply to:

(1) An environmental health specialist-in-training as provided for under [§ 21-305] **§ 11-305** of this subtitle;

(2) A student participating in a field experience as part of an educational program; and

(3) A qualified individual in any of the following job classifications:

(i) Industrial hygienists as defined by the American Industrial Hygiene Association;

(ii) Certified industrial hygienists and industrial hygienists in training as defined by the American Board of Industrial Hygiene;

(iii) Health planners or natural resource planners;

(iv) Building and housing inspectors;

(v) Geologists;

(vi) Chemists;

(vii) Meteorologists;

(viii) Laboratory scientists;

(ix) Professional engineers who are licensed in this State under Title 14 of the Business Occupations and Professions Article and whose normal professional activities are among the activities specified in [§ 21-101(i)] **§ 11-101(I)** of this title;

(x) Public health engineers and water resources engineers employed by the State or a local subdivision;

(xi) Hydrographers and hydrographic engineers;

(xii) Natural resources managers;

(xiii) Natural resources biologists;

(xiv) Program administrators, administration directors, administrators, administrative officers, and administrative specialists;

(xv) Paraprofessional personnel, aides, and technicians whose routine duties include monitoring, sampling, and recording of data;

(xvi) Persons employed by the Department of Natural Resources or related county departments who perform duties and responsibilities under the Natural Resources Article;

(xvii) Persons employed by the Department [of the Environment] or related county departments who perform duties and responsibilities for:

1. Erosion and sediment control, stormwater management, or oil pollution control under Title 4 of [the Environment Article] **THIS ARTICLE**;

2. Motor vehicle pollution control under Title 2 of [the Environment Article] **THIS ARTICLE** or Title 23 of the Transportation Article; or

3. Sewage sludge, water pollution control, or drinking water under Title 9 of [the Environment Article] **THIS ARTICLE**;

(xviii) Persons employed by the Department [of the Environment] and classified as either:

1. A regulatory and compliance engineer or architect; or

2. An environmental compliance specialist;

(xix) Persons employed by the Division of Labor and Industry of the Maryland Department of Labor who perform duties and responsibilities under the Maryland Occupational Safety and Health Act;

(xx) Occupational safety and health technologists as defined by the American Board of Industrial Hygiene and the Board of Certified Safety Professionals;

(xxi) Safety professionals as defined by the American Society of Safety Engineers;

(xxii) Certified safety professionals and associate safety professionals as defined by the Board of Certified Safety Professionals;

(xxiii) Persons employed by industrial operations whose environmental services are performed solely for their employer; and

(xxiv) State milk safety inspectors performing duties under the National Conference on Interstate Milk Shipments and employed by the **MARYLAND** Department **OF HEALTH**.

11–302.

To obtain a license, an applicant shall demonstrate to the satisfaction of the Board that the applicant:

(1) Is at least 18 years old;

(2) Is of good moral character;

(3) Has satisfied the education and experience requirements to qualify for examination under [§ 21–304] **§ 11–304** of this subtitle; and

(4) Except as otherwise provided in this title, has successfully passed an examination as required by the Board.

11–306.

(b) The Board may grant a waiver only if the applicant:

(1) Pays the application fee required by [§ 21–303] **§ 11–303** of this subtitle; and

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title;

(ii) Became licensed or registered to practice as an environmental health specialist or its equivalent in the other state after passing in that state an examination as a condition of licensure or registration; and

(iii) Has performed at least 24 months of compensated work as an environmental health specialist or its equivalent in the other state.

11–312.

(b) Subject to the hearing provisions of [§ 21–313] **§ 11–313** of this subtitle, the Board, on the affirmative vote of a majority of its full authorized membership, may deny any applicant licensure, reprimand any licensee, or place any individual who is licensed on probation, or suspend or revoke a license, if the applicant or licensee:

1 (1) Fraudulently or deceptively obtains or attempts to obtain a license for
2 the applicant or license holder or another;

3 (2) Fraudulently or deceptively uses a license;

4 (3) Knowingly violates any provision of this title, or any rule or regulation
5 adopted under this title;

6 (4) Commits any gross negligence, incompetence, or misconduct while
7 performing the duties of an environmental health specialist;

8 (5) Is convicted of or pleads guilty or nolo contendere to a felony or to a
9 crime involving moral turpitude, whether or not any appeal or other proceeding is pending
10 to have the conviction or plea set aside;

11 (6) Provides professional services while:

12 (i) Under the influence of alcohol; or

13 (ii) Using any narcotic or controlled dangerous substance, as defined
14 in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic
15 amounts or without valid medical indication;

16 (7) Is disciplined by a licensing or disciplinary authority of any other state
17 or country or convicted or disciplined by a court of any state or country for an act that would
18 be grounds for disciplinary action under the Board's disciplinary statutes;

19 (8) Willfully makes or files a false report or record while performing the
20 duties of an environmental health specialist;

21 (9) Willfully fails to file or record any report as required by law, willfully
22 impedes or obstructs the filing or recording of the report, or induces another to fail to file
23 or record the report;

24 (10) Submits a false statement to collect a fee;

25 (11) Promotes the sale of land, devices, appliances, or goods provided for a
26 person in such a manner as to exploit the person for financial gain of the licensed
27 environmental health specialist;

28 (12) Willfully alters a sample, specimen, or any test procedure to cause the
29 results upon analysis to represent a false finding;

30 (13) Violates any rule or regulation adopted by the Board;

31 (14) Uses or promotes or causes the use of any misleading, deceiving, or
32 untruthful advertising matter, promotional literature, or testimonial;

(15) Is professionally, physically, or mentally incompetent; or

(16) Fails to cooperate with a lawful investigation conducted by the Board.

11–313.

(a) (1) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under [§ 21–312] **§ 11–312** of this subtitle, it shall give the individual against whom this action is contemplated an opportunity for a hearing before the Board.

(2) A hearing shall be held within a reasonable time not to exceed 6 months after charges have been brought.

11–314.

Except as provided in this [section] **SUBTITLE** for an action under [§ 21–312] **§ 11–312** of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in § 10–202 of the State Government Article, may take an appeal as allowed in §§ 10–222 and 10–223 of the State Government Article.

11–402.

A person who violates any provision of [§ 21–301] **§ 11–301** of this title or [§ 21–401] **§ 11–401** of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 2 years or both.

SECTION 3. AND BE IT FURTHER ENACTED, That on or before October 1, 2023, the Department of the Environment shall adopt regulations establishing that the requirement for a minimum area of 10,000 square feet for subsurface disposal of sewage under COMAR 26.04.03.02 applies to detached dwellings.

SECTION 4. AND BE IT FURTHER ENACTED, That, on October 1, 2022, all the functions, powers, duties, assets, liabilities, and records of the Board of Environmental Health Specialists in the Maryland Department of Health shall be transferred to the Department of the Environment.

SECTION 5. AND BE IT FURTHER ENACTED, That the publishers of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act. The publishers shall adequately describe any correction in an editor's note following the section affected.

SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.