

# SENATE BILL 266

M3

7lr0526  
CF HB 281

---

By: Senators Conway, Pinsky, Astle, Currie, Feldman, Guzzone, Kagan, Madaleno,  
Nathan-Pulliam, Robinson, Young, and Zucker

Introduced and read first time: January 20, 2017

Assigned to: Education, Health, and Environmental Affairs

---

Committee Report: Favorable

Senate action: Adopted with floor amendments

Read second time: March 14, 2017

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Environment – On-Site Sewage Disposal Systems – Best Available Technology**  
3 **for Nitrogen Removal – ~~Prohibition~~**

4 FOR the purpose of ~~prohibiting a person from installing, or having installed, on property a~~  
5 ~~person owns in the State in the Chesapeake Bay watershed, the Atlantic Coastal~~  
6 ~~Bays watershed, or the watershed of a nitrogen impaired body of water, an on-site~~  
7 ~~sewage disposal system to service a newly constructed building, unless the on-site~~  
8 ~~sewage disposal system utilizes certain nitrogen removal technology; requiring the~~  
9 Department of the Environment to use certain money from the Bay Restoration Fund  
10 to assist a person in paying the cost difference between a conventional on-site  
11 sewage disposal system and a system utilizing nitrogen removal technology in a  
12 certain order of priority; repealing certain obsolete provisions of law; requiring the  
13 Bay Cabinet, in consultation with the Chesapeake Bay Commission and other  
14 interested parties, to review and make certain recommendations regarding certain  
15 matters; requiring the Bay Cabinet to report its findings and recommendations to  
16 the Governor and the General Assembly on or before a certain date; and generally  
17 relating to on-site sewage disposal systems that utilize the best available technology  
18 for nitrogen removal.

19 BY repealing and reenacting, with amendments,  
20 Article – Environment  
21 Section 9–1108 and 9–1605.2(h)(2)(i)1.  
22 Annotated Code of Maryland  
23 (2014 Replacement Volume and 2016 Supplement)

---

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.



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

**Article – Environment**

9–1108.

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

(2) “Nitrogen removal technology” means the best available technology for the removal of nitrogen.

(3) “On–site sewage disposal system” means a sewage treatment unit, collection system, disposal area, and related appurtenances.

(b) A person may not:

(1) Install, or have installed, on property a person owns in the State in the Chesapeake ~~and~~ ~~BAY WATERSHED, THE~~ Atlantic Coastal Bays ~~and~~ ~~CRITICAL AREA~~ ~~WATERSHED, OR THE WATERSHED OF A NITROGEN-IMPAIRED BODY OF WATER~~, an on–site sewage disposal system to service a newly constructed building, unless the on–site sewage disposal system utilizes nitrogen removal technology; or

(2) Replace or have replaced, an existing on–site sewage disposal system on property a person owns in the State in the Chesapeake and Atlantic Coastal Bays Critical Area, unless the replacement on–site sewage disposal system utilizes nitrogen removal technology.

(c) ~~¶~~(1) Subject to paragraph (2) of this subsection ~~AND in~~ ~~IN~~ accordance with § 9–1605.2(h) of this title, the Department shall assist homeowners in paying the cost difference between a conventional on–site sewage disposal system and a system that utilizes nitrogen removal technology with money from the Bay Restoration Fund, if sufficient funds are available.

**(2) THE DEPARTMENT SHALL PROVIDE THE ASSISTANCE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN THE FOLLOWING ORDER OF PRIORITY:**

**(I) FIRST, FOR FAILING SYSTEMS IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA;**

**(II) SECOND, FOR FAILING SYSTEMS OUTSIDE THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA;**

**(III) THIRD, FOR EXISTING SYSTEMS THAT:**

1                                1. DO NOT COMPLY WITH STATE OR LOCAL LAWS,  
2 REGULATIONS, OR POLICIES; AND

3                                2. ARE IN THE CHESAPEAKE AND ATLANTIC COASTAL  
4 BAYS CRITICAL AREA;

5                                (IV) FOURTH, FOR NEW SYSTEMS IN THE CHESAPEAKE AND  
6 ATLANTIC COASTAL BAYS CRITICAL AREA;

7                                (V) FIFTH, FOR EXISTING SYSTEMS THAT:

8                                1. DO NOT COMPLY WITH STATE OR LOCAL LAWS,  
9 REGULATIONS, OR POLICIES; AND

10                               2. ARE OUTSIDE THE CHESAPEAKE AND ATLANTIC  
11 COASTAL BAYS CRITICAL AREA; AND

12                               (VI) SIXTH, FOR NEW SYSTEMS OUTSIDE THE CHESAPEAKE AND  
13 ATLANTIC COASTAL BAYS CRITICAL AREA.

14                               [(2) In calendar years 2010, 2011, and 2012, the Department shall assist  
15 homeowners by paying 100% of the cost difference between a conventional on-site sewage  
16 disposal system and a system that utilizes nitrogen removal technology with money from  
17 the Bay Restoration Fund, if the homeowner:

18                               (i) Is required under subsection (b)(2) of this section to replace an  
19 existing on-site sewage disposal system with an on-site sewage disposal system that  
20 utilizes nitrogen removal technology; and

21                               (ii) Has a failing on-site sewage disposal system.]

22                               (d) (1) Subject to paragraph (2) of this subsection, a person who violates  
23 subsection (b) of this section is subject to the civil and administrative penalties and the  
24 enforcement mechanisms provided in §§ 9-334 through 9-342 of this title.

25                               (2) The penalties imposed under this section may not exceed \$8,000.

26                               (e) (1) The Department shall adopt regulations to implement this section.

27                               (2) The regulations adopted in accordance with paragraph (1) of this  
28 subsection shall include provisions to ensure that appropriate management measures are  
29 provided for the operation and maintenance of nitrogen removal technology.

30 9-1605.2.

(h) (2) The Comptroller shall:

(i) Deposit 60% of the funds in the separate account to be used for:

1. [Subject] EXCEPT AS PROVIDED IN § 9-1108 OF THIS TITLE AND SUBJECT to paragraphs (3), (4), (5), and (6) of this subsection, with priority first given to failing systems and holding tanks located in the Chesapeake and Atlantic Coastal Bays Critical Area and then to failing systems that the Department determines are a threat to public health or water quality, grants or loans for up to 100% of:

A. The costs attributable to upgrading an on-site sewage disposal system to the best available technology for the removal of nitrogen;

B. The cost difference between a conventional on-site sewage disposal system and a system that utilizes the best available technology for the removal of nitrogen;

C. The cost of repairing or replacing a failing on-site sewage disposal system with a system that uses the best available technology for nitrogen removal;

D. The cost, up to the sum of the costs authorized under item B of this item for each individual system, of replacing multiple on-site sewage disposal systems located in the same community with a new community sewerage system that is owned by a local government and that meets enhanced nutrient removal standards; or

E. The cost, up to the sum of the costs authorized under item C of this item for each individual system, of connecting a property using an on-site sewage disposal system to an existing municipal wastewater facility that is achieving enhanced nutrient removal or biological nutrient removal level treatment, including payment of the principal, but not interest, of debt issued by a local government for such connection costs;

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Bay Cabinet, in consultation with the Chesapeake Bay Commission and other interested parties, shall:

(1) review and recommend alternative nitrogen reductions that account for any nitrogen reductions lost due to regulatory changes made to COMAR 26.04.02.07 as adopted on November 1, 2016;

(2) determine the most cost-effective methods for reducing nitrogen to the Chesapeake and Atlantic Coastal Bays Critical Area and other nitrogen-impaired bodies of water in the State; and

(3) recommend a new prioritization for the use of Bay Restoration Funds that is based on the most cost-effective methods for reducing nitrogen as determined under item (2) of this subsection.

1       (b) On or before December 31, 2017, the Cabinet shall report its findings and  
2 recommendations to the Governor and, in accordance with § 2-1246 of the State  
3 Government Article, the General Assembly.

4       SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5   October 1, 2017.

Approved:

---

Governor.

---

President of the Senate.

---

Speaker of the House of Delegates.