

SENATE BILL 535

Q7, M1, M3
SB 879/13 – B&T

4lr2449

By: **Senator Edwards**

Introduced and read first time: January 29, 2014

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Gas Severance Tax and Impact Account**

3 FOR the purpose of imposing a tax on the production of natural gas from certain wells
4 in the State; setting the rate of the tax; providing for the administration of the
5 tax by the Comptroller; authorizing the Comptroller to require certain security
6 for the tax; imposing certain penalties for certain violations; requiring persons
7 subject to the tax to file returns and keep and make available certain records
8 and information; providing for the distribution of revenue from the tax;
9 establishing the Natural Gas Impact Account as a special, nonlapsing fund in
10 the Oil and Gas Fund; requiring the Department of the Environment to
11 administer the Account; specifying the contents of the Account; specifying the
12 purposes for which the Account may be used; authorizing the Department to
13 recover certain costs expended from the Account in a civil action and deposit the
14 recovered funds in the Account; requiring the Department to include certain
15 information in a certain annual report to the Governor and the General
16 Assembly; stating the intent of the General Assembly; defining certain terms;
17 and generally relating to a tax on the production of natural gas from certain
18 wells in the State.

19 BY adding to

20 Article – Tax – General

21 Section 1–101(o–1); 2–104(c)(3); 2–11A–01 and 2–11A–02 to be under the new
22 subtitle “Subtitle 11A. Natural Gas Severance Tax Revenue
23 Distribution”; 10.5–101 through 10.5–301 to be under the new title “Title
24 10.5. Natural Gas Severance Tax”; and 13–825(f–1), 13–1001(d–1),
25 13–1003(b–1), 13–1008(b–1), and 13–1104(f–1)

26 Annotated Code of Maryland

27 (2010 Replacement Volume and 2013 Supplement)

28 BY repealing and reenacting, with amendments,

29 Article – Tax – General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 2–102, 13–201(3), 13–508(a) and (c), 13–509(a), and 13–1102
 2 Annotated Code of Maryland
 3 (2010 Replacement Volume and 2013 Supplement)

4 BY adding to
 5 Article – Environment
 6 Section 14–124.1
 7 Annotated Code of Maryland
 8 (2007 Replacement Volume and 2013 Supplement)

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

11 **Article – Tax – General**

12 1–101.

13 **(O–1) “NATURAL GAS SEVERANCE TAX” MEANS THE TAX IMPOSED**
 14 **UNDER TITLE 10.5 OF THIS ARTICLE.**

15 2–102.

16 In addition to the duties set forth elsewhere in this article and in other articles
 17 of the Code, the Comptroller shall administer the laws that relate to:

- 18 (1) the admissions and amusement tax;
- 19 (2) the alcoholic beverage tax;
- 20 (3) the boxing and wrestling tax;
- 21 (4) the income tax;
- 22 (5) the Maryland estate tax;
- 23 (6) the Maryland generation–skipping transfer tax;
- 24 (7) the motor carrier tax;
- 25 (8) the motor fuel tax;
- 26 (9) **THE NATURAL GAS SEVERANCE TAX;**
- 27 **(10)** the sales and use tax;
- 28 **[(10)] (11)** the savings and loan association franchise tax; and

1 ~~[(11)]~~ (12) the tobacco tax.

2 2-104.

3 (c) (3) THE COMPTROLLER SHALL KEEP A NATURAL GAS SEVERANCE
4 TAX RETURN FOR 4 YEARS FROM THE DATE THE RETURN IS FILED, AFTER
5 WHICH THE COMPTROLLER MAY DESTROY THE RETURN.

6 SUBTITLE 11A. NATURAL GAS SEVERANCE TAX REVENUE DISTRIBUTION.

7 2-11A-01.

8 FROM THE NATURAL GAS SEVERANCE TAX REVENUE, THE COMPTROLLER
9 SHALL DISTRIBUTE EACH QUARTER THE AMOUNT NECESSARY TO ADMINISTER
10 THE NATURAL GAS SEVERANCE TAX ESTABLISHED UNDER TITLE 10.5 OF THIS
11 ARTICLE IN THE PREVIOUS QUARTER TO AN ADMINISTRATIVE COST ACCOUNT.

12 2-11A-02.

13 AFTER MAKING THE DISTRIBUTION REQUIRED UNDER § 2-11A-01 OF
14 THIS SUBTITLE, THE COMPTROLLER SHALL DISTRIBUTE THE REMAINING
15 NATURAL GAS SEVERANCE TAX REVENUE TO THE NATURAL GAS IMPACT
16 ACCOUNT ESTABLISHED UNDER § 14-124.1 OF THE ENVIRONMENT ARTICLE.

17 TITLE 10.5. NATURAL GAS SEVERANCE TAX.

18 SUBTITLE 1. GENERAL PROVISIONS.

19 10.5-101.

20 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A TAX
21 IS IMPOSED ON THE NATURAL GAS PRODUCED AT A WELLHEAD BY A PERSON
22 WHO HOLDS A PERMIT UNDER § 14-104 OF THE ENVIRONMENT ARTICLE AT A
23 RATE OF 2.5% OF THE GROSS FAIR MARKET VALUE OF NATURAL GAS PRODUCED
24 AT THE WELLHEAD.

25 (B) THE NATURAL GAS SEVERANCE TAX DOES NOT APPLY TO:

26 (1) GAS THAT IS USED FOR DOMESTIC OR AGRICULTURAL
27 PURPOSES ON THE REAL PROPERTY FROM WHICH THE GAS IS PRODUCED;

28 (2) GAS FROM A WELL THAT PRODUCES NOT MORE THAN 20,000
29 CUBIC FEET OF GAS PER DAY IN A MONTH; OR

1 **(3) GAS THAT IS WITHDRAWN FROM A STORAGE WELL.**

2 **(C) A PERSON THAT HOLDS A WELL PERMIT UNDER § 14-104 OF THE**
3 **ENVIRONMENT ARTICLE IS:**

4 **(1) SUBJECT TO THE NATURAL GAS SEVERANCE TAX FOR GAS**
5 **PRODUCED AT THE WELL TO WHICH THE PERMIT RELATES; AND**

6 **(2) REQUIRED TO PERFORM THE OBLIGATIONS IMPOSED UNDER**
7 **THIS TITLE ON PERSONS SUBJECT TO THE NATURAL GAS SEVERANCE TAX.**

8 **SUBTITLE 2. RETURNS AND RECORDS.**

9 **10.5-201.**

10 **A PERSON SUBJECT TO THE NATURAL GAS SEVERANCE TAX SHALL**
11 **COMPLETE UNDER OATH AND FILE WITH THE COMPTROLLER THE NATURAL GAS**
12 **SEVERANCE TAX RETURN:**

13 **(1) ON OR BEFORE THE 25TH DAY OF THE SECOND MONTH THAT**
14 **FOLLOWS THE MONTH IN WHICH THE DATE OF FIRST PRODUCTION OCCURS;**
15 **AND**

16 **(2) FOR OTHER PERIODS AND OTHER DATES THAT THE**
17 **COMPTROLLER SPECIFIES BY REGULATION.**

18 **10.5-202.**

19 **EACH PERSON SUBJECT TO THE NATURAL GAS SEVERANCE TAX SHALL:**

20 **(1) KEEP COMPLETE AND ACCURATE RECORDS IN THE FORM AND**
21 **WITH THE INFORMATION THAT THE COMPTROLLER REQUIRES BY REGULATION;**

22 **(2) MAKE THE RECORDS AVAILABLE FOR INSPECTION AND**
23 **EXAMINATION BY THE COMPTROLLER AND THE MARYLAND DEPARTMENT OF**
24 **THE ENVIRONMENT ON REQUEST; AND**

25 **(3) KEEP THE RECORDS REQUIRED UNDER ITEM (1) OF THIS**
26 **SUBSECTION FOR 4 YEARS UNLESS THE COMPTROLLER CONSENTS IN WRITING**
27 **TO AN EARLIER DESTRUCTION OF THE RECORDS OR REQUIRES IN WRITING**
28 **THAT THE RECORDS BE KEPT LONGER THAN 4 YEARS.**

1 **SUBTITLE 3. TAX PAYMENT.**

2 **10.5–301.**

3 **A PERSON SUBJECT TO THE NATURAL GAS SEVERANCE TAX SHALL PAY**
 4 **THE TAX WITH THE RETURN REQUIRED UNDER SUBTITLE 2 OF THIS TITLE.**

5 13–201.

6 In this subtitle, “tax information” means:

7 (3) any information contained in:

8 (i) an admissions and amusement tax return; [or]

9 (ii) **A NATURAL GAS SEVERANCE TAX RETURN; OR**

10 **(III)** a sales and use tax return.

11 13–508.

12 (a) Within 30 days after the date on which a notice of assessment of the
 13 admissions and amusement tax, alcoholic beverage tax, boxing and wrestling tax,
 14 income tax, motor carrier tax, motor fuel tax, **NATURAL GAS SEVERANCE TAX**, public
 15 service company franchise tax, financial institution franchise tax, sales and use tax, or
 16 tobacco tax is mailed, a person or governmental unit against which the assessment is
 17 made may submit to the tax collector:

18 (1) an application for revision of the assessment; or

19 (2) except for the public service company franchise tax, if the
 20 assessment is paid, a claim for refund.

21 (c) The Comptroller or an employee of the Comptroller’s office expressly
 22 designated by the Comptroller promptly:

23 (1) (i) shall hold an informal hearing on a person’s or
 24 governmental unit’s admissions and amusement tax, alcoholic beverage tax, boxing
 25 and wrestling tax, income tax, motor carrier tax, motor fuel tax, **NATURAL GAS**
 26 **SEVERANCE TAX**, sales and use tax, or tobacco tax application for revision or claim for
 27 refund under subsection (a) of this section; and

28 (ii) after the hearing:

29 1. shall act on the application for revision; and

1 2. may assess any additional tax, penalty, and interest
2 due; and

3 (2) shall mail to the person or governmental unit a notice of final
4 determination.

5 13-509.

6 (a) Notwithstanding a person's failure to file a timely application for revision
7 or claim for refund of an assessment of the admissions and amusement tax, alcoholic
8 beverage tax, boxing and wrestling tax, income tax, motor carrier tax, motor fuel tax,
9 **NATURAL GAS SEVERANCE TAX**, sales and use tax, or tobacco tax under § 13-508(a)
10 of this subtitle, the Comptroller or the Comptroller's designee may issue an order
11 decreasing or abating an assessment to correct an erroneous assessment.

12 13-825.

13 **(F-1) THE COMPTROLLER MAY REQUIRE A PERSON SUBJECT TO THE**
14 **NATURAL GAS SEVERANCE TAX TO POST SECURITY FOR THE NATURAL GAS**
15 **SEVERANCE TAX IN THE AMOUNT THAT THE COMPTROLLER DETERMINES.**

16 13-1001.

17 **(D-1) A PERSON THAT IS REQUIRED TO FILE A NATURAL GAS**
18 **SEVERANCE TAX RETURN AND WHO WILLFULLY FAILS TO FILE THE RETURN AS**
19 **REQUIRED UNDER TITLE 10.5 OF THIS ARTICLE IS GUILTY OF A MISDEMEANOR**
20 **AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000 OR**
21 **IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.**

22 13-1003.

23 **(B-1) A PERSON THAT IS REQUIRED TO FILE A NATURAL GAS**
24 **SEVERANCE TAX RETURN AND WHO WILLFULLY MAKES A FALSE STATEMENT OR**
25 **MISLEADING OMISSION ON THE RETURN REQUIRED UNDER TITLE 10.5 OF THIS**
26 **ARTICLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A**
27 **FINE NOT EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR**
28 **BOTH.**

29 13-1008.

30 **(B-1) A PERSON THAT IS REQUIRED TO PAY THE NATURAL GAS**
31 **SEVERANCE TAX AND WHO WILLFULLY FAILS TO KEEP RECORDS AS REQUIRED**
32 **UNDER § 10.5-202 OF THIS ARTICLE OR UNDER NATURAL GAS SEVERANCE TAX**
33 **REGULATIONS IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT**

1 TO A FINE NOT EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS
2 OR BOTH.

3 13-1102.

4 (a) Except as provided in subsection (b) of this section, an action to recover
5 admissions and amusement tax, boxing and wrestling tax, motor fuel tax, **NATURAL**
6 **GAS SEVERANCE TAX**, or sales and use tax may not be brought after 4 years from the
7 date on which the tax is due.

8 (b) (1) (i) An action to recover admissions and amusement tax, boxing
9 and wrestling tax, **NATURAL GAS SEVERANCE TAX**, or sales and use tax may be
10 brought at any time if there is proof that the tax is not paid due to fraud or gross
11 negligence.

12 (ii) An underpayment of 25% or more of the sales and use tax
13 due is prima facie evidence of gross negligence.

14 (2) An action to recover motor fuel tax may be brought at any time if
15 there is proof that the tax is not paid due to fraud.

16 13-1104.

17 **(F-1) EXCEPT AS PROVIDED IN § 13-508 OF THIS TITLE, A CLAIM FOR A**
18 **REFUND OF NATURAL GAS SEVERANCE TAX MAY NOT BE FILED AFTER 4 YEARS**
19 **FROM THE DATE THE TAX WAS PAID.**

20 **Article – Environment**

21 **14-124.1.**

22 **(A) IN THIS SECTION, “ACCOUNT” MEANS THE NATURAL GAS IMPACT**
23 **ACCOUNT WITHIN THE OIL AND GAS FUND.**

24 **(B) THERE IS A NATURAL GAS IMPACT ACCOUNT.**

25 **(C) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE BALANCE**
26 **OF THE ACCOUNT NOT BE TRANSFERRED BY AN ACT OF THE GENERAL**
27 **ASSEMBLY.**

28 **(D) THE DEPARTMENT SHALL ADMINISTER THE ACCOUNT.**

29 **(E) THE ACCOUNT IS A SPECIAL, NONLAPSING FUND WITHIN THE OIL**
30 **AND GAS FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND**
31 **PROCUREMENT ARTICLE.**

1 **(F) THE ACCOUNT CONSISTS OF:**

2 **(1) REVENUE DISTRIBUTED TO THE ACCOUNT UNDER § 2-11A-02**
3 **OF THE TAX – GENERAL ARTICLE;**

4 **(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE**
5 **ACCOUNT; AND**

6 **(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED**
7 **FOR THE BENEFIT OF THE ACCOUNT.**

8 **(G) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
9 **ACCOUNT SHALL BE USED BY THE DEPARTMENT TO:**

10 **(i) MONITOR FOR, MITIGATE, AND REMEDIATE ADVERSE**
11 **IMPACTS OF GAS EXPLORATION AND PRODUCTION ON THE ENVIRONMENT,**
12 **NATURAL RESOURCES, AND INFRASTRUCTURE IN THOSE AREAS OF THE STATE**
13 **WHERE NATURAL GAS IS PRODUCED THAT CANNOT BE SHOWN TO BE CAUSED BY**
14 **A SPECIFIC PERSON THAT CAN BE HELD LIABLE;**

15 **(ii) REMEDIATE OR MITIGATE ADVERSE IMPACTS OF GAS**
16 **EXPLORATION AND PRODUCTION THAT REQUIRE IMMEDIATE ACTION TO**
17 **PROTECT PUBLIC HEALTH OR SAFETY, THE ENVIRONMENT, OR NATURAL**
18 **RESOURCES THAT ARE NOT CORRECTED IN A TIMELY MANNER IN ACCORDANCE**
19 **WITH THIS SUBTITLE OR UNDER ANY RULE, REGULATION, PERMIT, OR ORDER**
20 **ISSUED UNDER THIS SUBTITLE; OR**

21 **(iii) PROVIDE FUNDING TO ANY OTHER STATE AGENCY FOR**
22 **THE PURPOSES SET FORTH IN ITEMS (i) AND (ii) OF THIS PARAGRAPH.**

23 **(2) IF THE BALANCE OF THE ACCOUNT EXCEEDS \$10,000,000,**
24 **ANY AMOUNT IN EXCESS OF \$10,000,000 MAY BE USED BY THE DEPARTMENT:**

25 **(i) FOR THE PURPOSES SET FORTH IN PARAGRAPH (1) OF**
26 **THIS SUBSECTION;**

27 **(ii) FOR PROJECTS THAT BENEFIT THE AREAS OF THE**
28 **STATE WHERE NATURAL GAS IS PRODUCED; OR**

29 **(iii) TO PROVIDE FUNDING TO ANY OTHER STATE AGENCY**
30 **FOR THE PURPOSES SET FORTH IN ITEMS (i) AND (ii) OF THIS PARAGRAPH.**

1 **(H) (1) THE DEPARTMENT MAY RECOVER IN A CIVIL ACTION COSTS**
2 **EXPENDED FROM THE ACCOUNT UNDER SUBSECTION (G)(1)(II) OF THIS**
3 **SECTION FROM A PERSON THAT IS RESPONSIBLE FOR CORRECTING ANY**
4 **ADVERSE IMPACTS FROM GAS EXPLORATION AND PRODUCTION IN THE STATE.**

5 **(2) ANY FUNDS RECOVERED UNDER THIS SUBSECTION SHALL BE**
6 **DEPOSITED IN THE ACCOUNT.**

7 **(I) THE DEPARTMENT SHALL INCLUDE INFORMATION CONCERNING**
8 **THE REVENUES AND EXPENDITURES OF THE ACCOUNT IN THE ANNUAL REPORT**
9 **REQUIRED UNDER § 14-124 OF THIS SUBTITLE.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 July 1, 2014.