

SENATE BILL 818

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2lr2333
CF HB 1200

By: **Senator Ellis**

Introduced and read first time: February 7, 2022

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 4, 2022

CHAPTER _____

1 AN ACT concerning

2 **Environment – Permit Applications – Environmental Justice Screening**

3 FOR the purpose of requiring a person applying for a certain permit from the Department
4 of the Environment to include in the application the EJ Score from the Maryland
5 ~~EJScreen mapping~~ EJ tool for the ~~address~~ census tract where the applicant is
6 seeking the permit; requiring the Department, on receiving a certain permit
7 application, to ~~conduct~~ review an environmental justice analysis of the ~~address~~
8 census tract where the applicant is seeking a permit using the Maryland ~~EJScreen~~
9 ~~mapping EJ~~ tool; ~~requiring the Department to conduct the analysis before deciding~~
10 ~~whether to issue a permit~~; requiring notices regarding certain permit applications to
11 include information related to EJ Scores and environmental justice analyses; and
12 generally relating to environmental permits and environmental justice screenings.

13 BY repealing and reenacting, with amendments,
14 Article – Environment
15 Section 1–101 and 1–602
16 Annotated Code of Maryland
17 (2013 Replacement Volume and 2021 Supplement)

18 BY adding to
19 Article – Environment
20 Section 1–205
21 Annotated Code of Maryland
22 (2013 Replacement Volume and 2021 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

1–101.

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

(b) “Contested case hearing” means an adjudicatory hearing in accordance with the contested case procedures of Subtitle 2 of the Maryland Administrative Procedure Act.

(c) “County” means a county of this State and, unless expressly provided otherwise, Baltimore City.

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

(e) **“EJ SCORE” MEANS AN OVERALL EVALUATION OF AN AREA’S ENVIRONMENT AND EXISTING ENVIRONMENTAL JUSTICE INDICATORS, AS DEFINED IN REGULATION, INCLUDING:**

(1) POLLUTION BURDEN EXPOSURE;

(2) POLLUTION BURDEN ENVIRONMENTAL EFFECTS;

(3) SENSITIVE POPULATIONS; AND

(4) SOCIOECONOMIC FACTORS.

(F) “ENVIRONMENTAL JUSTICE” ~~MEANS EQUAL PROTECTION FROM ENVIRONMENTAL AND PUBLIC HEALTH HAZARDS FOR ALL PEOPLE REGARDLESS OF RACE, INCOME, CULTURE, AND SOCIAL STATUS~~ HAS THE MEANING STATED IN § 1-701 OF THIS TITLE.

[(e)] (G) “Health officer” means the Baltimore City Commissioner of Health or the health officer of a county.

[(f)] (H) “Includes” or “including” means includes or including by way of illustration and not by way of limitation.

[(g)] (I) “Informational meeting” means a meeting, open to the public, at which the applicant or the Department presents information concerning a permit application. An informational meeting is not a contested case hearing nor an agency hearing under § 10–202(d) of the State Government Article.

1 **(J) “MARYLAND ~~EJSCREEN~~ EJ TOOL” MEANS A PUBLICLY AVAILABLE**
 2 **STATE MAPPING TOOL THAT ALLOWS USERS TO:**

3 **(1) EXPLORE LAYERS OF ENVIRONMENTAL JUSTICE CONCERN;**

4 **(2) DETERMINE THE OVERALL EJ SCORE FOR CENSUS TRACTS IN**
 5 **THE STATE; AND**

6 **(3) VIEW ADDITIONAL CONTEXT LAYERS RELEVANT TO AN AREA.**

7 **[(h)] (K)** “Person” means an individual, receiver, trustee, guardian, personal
 8 representative, fiduciary, or representative of any kind and any partnership, firm,
 9 association, corporation, or other entity.

10 **[(i)] (L)** “Physician” means an individual who is authorized under the Maryland
 11 Medical Practice Act to practice medicine in this State.

12 **[(j)] (M)** “Public hearing” means a meeting, open to the public, at which the
 13 Department receives oral and written comments concerning a tentative determination. A
 14 public hearing is not a contested case hearing nor an agency hearing under § 10–202(d) of
 15 the State Government Article.

16 **[(k)] (N)** “Secretary” means the Secretary of the Environment.

17 **[(l)] (O)** “State” means:

18 **(1)** A state, possession, or territory of the United States;

19 **(2)** The District of Columbia; or

20 **(3)** The Commonwealth of Puerto Rico.

21 **[(m)] (P)** “Substantively” means in a manner substantially affecting the rights,
 22 duties, or obligations of a member of the public.

23 **1–205.**

24 **(A) A PERSON APPLYING FOR A PERMIT UNDER THIS ARTICLE SHALL**
 25 **INCLUDE IN THE PERMIT APPLICATION THE EJ SCORE FROM THE MARYLAND**
 26 **~~EJSCREEN MAPPING~~ EJ TOOL FOR THE ~~ADDRESS~~ CENSUS TRACT WHERE THE**
 27 **APPLICANT IS SEEKING A PERMIT, UNLESS THE PERMIT REQUIRES THE APPLICANT**
 28 **TO USE A TOOL DEVELOPED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY.**

29 **(B) ~~(1)~~ ON RECEIVING A PERMIT APPLICATION UNDER THIS ARTICLE,**
 30 **THE DEPARTMENT SHALL, IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER**

1 THIS SECTION, ~~CONDUCT AN~~ REVIEW THE ANALYSIS OF THE ADDRESS CENSUS
 2 TRACT WHERE THE APPLICANT IS SEEKING A PERMIT USING THE MARYLAND
 3 ~~EJSCREEN MAPPING~~ EJ TOOL TO:

4 (1) VERIFY THE APPLICANT'S INFORMATION; AND

5 (2) PROVIDE A DESCRIPTION OF THE ENVIRONMENTAL JUSTICE
 6 INDICATORS CONTRIBUTING TO THE EJ SCORE OF THE CENSUS TRACT WHERE THE
 7 APPLICANT IS SEEKING A PERMIT.

8 ~~(2) THE DEPARTMENT SHALL CONDUCT THE ANALYSIS REQUIRED~~
 9 ~~UNDER PARAGRAPH (1) OF THIS SUBSECTION BEFORE DECIDING WHETHER TO~~
 10 ~~ISSUE A PERMIT UNDER THIS ARTICLE.~~

11 (C) ~~ON OR BEFORE OCTOBER 1, 2023, THE~~ THE DEPARTMENT SHALL MAY
 12 ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

13 1-602.

14 (a) Wherever this subtitle requires the Department to publish notice:

15 (1) Notice shall be published at least once a week for 2 consecutive weeks
 16 in a daily or weekly newspaper of general circulation in the geographical area in which the
 17 proposed facility is located;

18 (2) **THE NOTICE SHALL INCLUDE:**

19 (I) **THE EJ SCORE FOR THE ADDRESS CENSUS TRACT WHERE**
 20 **THE APPLICANT IS SEEKING A PERMIT, PROVIDED BY THE APPLICANT UNDER §**
 21 **1-205 OF THIS TITLE; AND**

22 (II) **THE ADDRESS OF THE DEPARTMENT WEBSITE FOR**
 23 ~~EJSCREEN~~ **THE MARYLAND EJ TOOL ANALYSES PREPARED UNDER §**
 24 **1-205 OF THIS TITLE;**

25 (3) The Department may require notice of an informational meeting or a
 26 public hearing by mail to each person requesting the meeting or hearing or to their
 27 authorized representatives;

28 [(3)] (4) The Department may provide additional notice by requiring the
 29 notice to be posted at the proposed facility or at public facilities in the geographical area of
 30 the proposed facility; and

31 [(4)] (5) The applicant shall bear all costs incurred by the Department in
 32 providing notice.

1 (b) (1) In addition to the requirements set forth in subsection (a) of this section
2 and notwithstanding any other requirements in this article, wherever this subtitle requires
3 the Department to publish notice of an application for a permit, the Department shall:

4 (i) Electronically post the notice of an application for a permit on
5 the Department's Web site; and

6 (ii) Provide a method for interested persons to electronically request
7 any additional notices related to an application for a permit.

8 (2) The notice required under paragraph (1) of this subsection shall
9 include:

10 (i) The name and address of the applicant;

11 (ii) A description of the location and the nature of the activity for
12 which the permit has been sought;

13 (iii) A reference to the applicable statutes or regulations governing
14 the application process;

15 (iv) The time and place of any scheduled informational meeting or
16 public hearing, or a description of where this information can be found;

17 (v) A description of where further information about the permit
18 application can be found; [and]

19 (vi) **1. THE EJ SCORE FOR THE ~~ADDRESS~~ CENSUS TRACT**
20 **WHERE THE APPLICANT IS SEEKING A PERMIT, PROVIDED BY THE APPLICANT**
21 **UNDER § 1-205 OF THIS TITLE; AND**

22 **2. THE ~~EJ SCREEN~~ MARYLAND EJ TOOL ANALYSIS**
23 **PREPARED BY THE DEPARTMENT UNDER § 1-205 OF THIS TITLE; AND**

24 (VII) Any other information that the Department determines is
25 necessary.

26 (c) The Department may require the applicant to publish and send the notices
27 required in subsection (a) of this section.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2022.