

SENATE BILL 712

Q7, M1, M3
SB 535/14 – B&T

5lr2489

By: **Senator Edwards**

Introduced and read first time: February 11, 2015

Assigned to: Rules

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

18 BY adding to

19 Article – Tax – General

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

25 Annotated Code of Maryland

26 (2010 Replacement Volume and 2014 Supplement)

27 BY repealing and reenacting, with amendments,

28 Article – Tax – General

29 Section 2–102, 13–201(3), 13–508(a) and (c), 13–509(a), and 13–1102

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2010 Replacement Volume and 2014 Supplement)

3 BY adding to
4 Article – Environment
5 Section 14–124.1
6 Annotated Code of Maryland
7 (2014 Replacement Volume)

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

10 **Article – Tax – General**

11 1–101.

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

14 2–102.

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

- 17 (1) the admissions and amusement tax;
- 18 (2) the alcoholic beverage tax;
- 19 (3) the boxing and wrestling tax;
- 20 (4) the income tax;
- 21 (5) the Maryland estate tax;
- 22 (6) the Maryland generation–skipping transfer tax;
- 23 (7) the motor carrier tax;
- 24 (8) the motor fuel tax;
- 25 (9) **THE NATURAL GAS SEVERANCE TAX;**
- 26 **(10)** the sales and use tax;
- 27 **[(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 WHICH**
5 **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 THE**
10 **NATURAL GAS SEVERANCE TAX ESTABLISHED UNDER TITLE 10.5 OF THIS ARTICLE**
11 **IN THE PREVIOUS QUARTER TO AN ADMINISTRATIVE COST ACCOUNT.**

12 **2-11A-02.**

13 **AFTER MAKING THE DISTRIBUTION REQUIRED UNDER § 2-11A-01 OF THIS**
14 **SUBTITLE, THE COMPTROLLER SHALL DISTRIBUTE THE REMAINING NATURAL GAS**
15 **SEVERANCE TAX REVENUE TO THE NATURAL GAS IMPACT ACCOUNT ESTABLISHED**
16 **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 IS**
21 **IMPOSED ON THE NATURAL GAS PRODUCED AT A WELLHEAD BY A PERSON THAT**
22 **HOLDS A PERMIT UNDER § 14-104 OF THE ENVIRONMENT ARTICLE AT A RATE OF**
23 **2.5% OF THE GROSS FAIR MARKET VALUE OF NATURAL GAS PRODUCED AT THE**
24 **WELLHEAD.**

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

26 (1) **GAS THAT IS USED FOR DOMESTIC OR AGRICULTURAL PURPOSES**
27 **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 **10.5-301.**

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

4 13-201.

5 In this subtitle, "tax information" means:

6 (3) any information contained in:

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

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

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

10 13-508.

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

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

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

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

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

27 (ii) after the hearing:

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

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

30 and

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

3 13-509.

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

10 13-825.

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

14 13-1001.

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

20 13-1003.

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

26 13-1008.

27 **(B-1) A PERSON THAT IS REQUIRED TO PAY THE NATURAL GAS SEVERANCE**
28 **TAX AND WHO WILLFULLY FAILS TO KEEP RECORDS AS REQUIRED UNDER § 10.5-202**
29 **OF THIS ARTICLE OR UNDER NATURAL GAS SEVERANCE TAX REGULATIONS IS**
30 **GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT**
31 **EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.**

32 13-1102.

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

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

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

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

12 13-1104.

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

16 Article - Environment

17 14-124.1.

18 **(A) IN THIS SECTION, "ACCOUNT" MEANS THE NATURAL GAS IMPACT**
19 **ACCOUNT WITHIN THE OIL AND GAS FUND.**

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

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

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

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

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

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

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

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

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

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

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

18 **(III) PROVIDE FUNDING TO ANY OTHER STATE AGENCY FOR THE**
19 **PURPOSES SET FORTH IN ITEMS (I) AND (II) OF THIS PARAGRAPH.**

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

22 **(I) FOR THE PURPOSES SET FORTH IN PARAGRAPH (1) OF THIS**
23 **SUBSECTION;**

24 **(II) FOR PROJECTS THAT BENEFIT THE AREAS OF THE STATE**
25 **WHERE NATURAL GAS IS PRODUCED; OR**

26 **(III) TO PROVIDE FUNDING TO ANY OTHER STATE AGENCY FOR**
27 **THE PURPOSES SET FORTH IN ITEMS (I) AND (II) OF THIS PARAGRAPH.**

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

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

3 **(1) THE DEPARTMENT SHALL INCLUDE INFORMATION CONCERNING THE**
4 **REVENUES AND EXPENDITURES OF THE ACCOUNT IN THE ANNUAL REPORT**
5 **REQUIRED UNDER § 14-124 OF THIS SUBTITLE.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
7 1, 2015.