



House Bill 190

Environment – Failing On-Site Sewage Disposal System - Definition

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Education, Health and Environmental Affairs
Committee

Date: March 26, 2019

From: Leslie Knapp, Jr.

The Maryland Association of Counties (MACo), Maryland Association of County Health Officers (MACHO) and the Maryland Conference of Local Environmental Health Directors (Conference) **SUPPORT HB 190 WITH AMENDMENTS**. The bill would codify a definition for a “failing on-site sewage disposal system.”

Currently, a “failing” system is determined by criteria established by the Maryland Department of the Environment (MDE). The criteria allow for some discretion by a local health department in jurisdictions where the health department has delegated authority. A system classified as “failing” triggers certain enforcement provisions regarding repair or upgrade requirements and may allow the system’s owner access to grant funding under the Chesapeake Bay Restoration Fund. The costs of repairing or upgrading a failing system can run into the tens of thousands of dollars.

In the House, MACo worked on consensus amendments with the bill sponsor, advocates, MACHO, the Conference, and MDE. The consensus amendments appropriately cover system failures that pose an actual health or water quality risk while eliminating vague terminology in the bill’s original language that could treat any system with a minor maintenance issue as a failing system. The amendments also clarify that the bill does not intend to alter the longstanding enforcement referral method used by MDE and local health departments.

However, the consensus amendments unintentionally left an issue regarding cesspools unfixed. Cesspools were intended to be subject to the same failure criteria as any other on-site sewage disposal system, but the consensus amendments accidentally treat all cesspools as failing. We are offering an amendment, agreed upon by all the participants in the original consensus amendments, to correct this oversight.

HB 190 attempts to create a statutory definition for what constitutes a failing on-site sewage disposal system. The amended bill targets systems that truly pose a threat to public or environmental health while still allowing for reasonable enforcement discretion. Our amendment on cesspools corrects an oversight that was made when the original consensus amendments were worked out. Accordingly, we request the Committee issue a **FAVORABLE WITH AMENDMENTS** report on HB 190.

Amendments follow, reverse side.

PROPOSED MACo, MACHO, & CONFERENCE AMENDMENTS TO HB 190

Explanation: This amendment would clarify that a cesspool counts as a failing system only if it meets the fail-state criteria established for all other on-site sewage disposal systems. As the third reader bill language is currently drafted, cesspools are automatically treated as failing systems, which was not the intent of parties who worked on the bill.

AMENDMENT NO. 1 (moves cesspool into main section of the definition and deletes the stand-alone language including cesspools)

On page 2, in line 7, after "SYSTEM" insert "OR CESSPOOL"; in line 8 after "SYSTEM" insert "OR CESSPOOL"; and strike lines 27 through 28 in their entirety.

AMENDMENT NO. 2 (renumbers the definition section)

On page 2, in line 6, strike "(1)"; in lines 11, 13, and 24, strike "(I)", "(II)", and "(III)", respectively, and substitute "(1)" and "(2)", and "(3)", respectively; and in lines 14, 16, 18, 20, and 23, strike "1.", "2.", "3.", "4.", and "5.", respectively, and substitute "(I)", "(II)", "(III)", "(IV)", and "(V)", respectively.