

While at a hearing before me some proponents of the Bill described it as a conservation measure, the Director notes that it "does nothing toward the reclamation of mined lands" and that Statewide regulation of the mineral industries with requirements for reclamation of mined lands would be a much preferable approach than a local tax of this nature. A copy of the Director's letter is also attached herewith and should be considered a part of this message.

Another concern which I have over this Bill is that the State itself uses extremely large amounts of these excavated minerals in constructing highways. The tax imposed by the Bill may significantly increase the cost of the materials used in road construction, to the detriment of all of the people of Maryland.

Finally, it should be pointed out that a similar bill was vetoed by Governor Tawes in May 1961 for essentially the same reasons which compel me to veto House Bill 908 at this time.

Sincerely,

/s/ Marvin Mandel,  
Governor.

*Read and Journalized.*

THE ATTORNEY GENERAL

Baltimore, Md., May 12, 1969.

Honorable Marvin Mandel  
Governor, State of Maryland  
State House  
Annapolis, Maryland

Dear Governor Mandel:

I have reviewed House Bill 908 which provides for the levy and collection of a severance tax on sand, gravel or stone of any kind excavated, removed or quarried in Cecil County. I am approving this Bill for constitutionality. However, I deem it advisable to point out that the Bill contains certain provisions which, in my view, may necessitate its construction judicially.

Subsection (a) of House Bill 908 imposes a severance tax "for the privilege of *depleting* the natural resources" of Cecil County. (Emphasis supplied.) The activity sought to be taxed is the depletion of these resources, whether by excavating, removing or quarrying. Thus it appears from a reading of subsection (a) that the tax is a severance tax, but in subsection (c) the Bill requires the excavator to file a monthly report of the "taxable sand, gravel or stone excavated, removed or quarried, which has been sold during the preceding month and pay the tax due thereon". If the phrase "and pay the tax due thereon" relates only to the resources which have been sold, it would appear that House Bill 908 imposes a sales tax and not a severance tax. Thus if this Bill does impose a sales tax, there could be further questions as to the sufficiency of the title of the Bill and whether the Bill is directed at a class of persons which is too narrow. In any case, the Bill obviously lacks clarity as to the legislative intent.

Sincerely yours,

/s/ Francis B. Burch,  
Attorney General.