

Chapter 374

(House Bill 1349)

AN ACT concerning

Environment – Compostable, Degradable, and Biodegradable Plastic Products – Labeling

FOR the purpose of prohibiting a person from selling in the State a certain plastic product that is labeled as biodegradable, degradable, or decomposable on or after a certain date subject to a certain exception; prohibiting a person from selling a certain plastic product in the State labeled as compostable, ~~marine degradable~~, or home compostable on or after a certain date unless the plastic product meets certain standards; prohibiting a person from selling in the State a certain film plastic product labeled as soil degradable ag mulch film or biodegradable mulch film on or after a certain date unless the product meets certain standards; requiring a person that distributes or sells a certain compostable plastic bag for certain purposes to ensure that the compostable plastic bag is labeled in a certain manner; requiring a person that distributes or sells a certain compostable food or beverage product for certain purposes to ensure that the food or beverage product is labeled in a certain manner; specifying certain provisions of this Act apply to a certain extent; establishing certain penalties for certain violations; providing for the disposition of certain penalties collected under this Act; and generally relating to compostable, degradable, and biodegradable plastic products.

BY adding to

Article – Environment

Section 9–2101 through 9–2105 to be under the new subtitle “Subtitle 21. Plastic Products”

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

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

Article – Environment

SUBTITLE 21. PLASTIC PRODUCTS.

9–2101.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ASTM D6400 STANDARD SPECIFICATION” MEANS THE STANDARD SPECIFICATION FOR LABELING OF PLASTICS DESIGNED TO BE AEROBICALLY COMPOSTED IN MUNICIPAL OR INDUSTRIAL FACILITIES SET BY THE AMERICAN SOCIETY FOR TESTING AND MATERIALS.

(C) “ASTM D6868 STANDARD SPECIFICATION” MEANS THE STANDARD SPECIFICATION FOR LABELING OF END ITEMS THAT INCORPORATE PLASTICS AND POLYMERS AS COATINGS OR ADDITIVES WITH PAPER AND OTHER SUBSTRATES DESIGNED TO BE AEROBICALLY COMPOSTED IN MUNICIPAL OR INDUSTRIAL FACILITIES SET BY THE AMERICAN SOCIETY FOR TESTING AND MATERIALS.

~~**(D) “ASTM D7081 STANDARD SPECIFICATION” MEANS THE STANDARD SPECIFICATION FOR NONFLOATING BIODEGRADABLE PLASTICS IN THE MARINE ENVIRONMENT SET BY THE AMERICAN SOCIETY FOR TESTING AND MATERIALS.**~~

~~**(E) (D)**~~ **“ASTM D5988 STANDARD TEST METHOD” MEANS THE STANDARD TEST METHOD FOR DETERMINING AEROBIC BIODEGRADATION OF PLASTIC MATERIALS IN SOIL SET BY THE AMERICAN SOCIETY FOR TESTING AND MATERIALS.**

~~**(F) (E)**~~ **“BIODEGRADABLE MULCH FILM” OR “SOIL DEGRADABLE AG MULCH FILM” MEANS A FILM PLASTIC PRODUCT USED AS A TECHNICAL TOOL IN COMMERCIAL FARMING THAT BIODEGRADES IN SOIL AFTER BEING USED AND MEETS THE STANDARDS SPECIFIED UNDER § 9-2102(C) OF THIS SUBTITLE.**

~~**(G) (F)**~~ **“FEDERAL GUIDES FOR THE USE OF ENVIRONMENTAL MARKETING CLAIMS” MEANS THE FEDERAL GUIDES ESTABLISHED BY THE FEDERAL TRADE COMMISSION UNDER TITLE 20, PART 260 OF THE CODE OF FEDERAL REGULATIONS.**

~~**(H) (G)**~~ **“FILM PLASTIC PRODUCT” MEANS A BAG, A SACK, A WRAP, OR ANY OTHER THIN PLASTIC SHEET FILM PRODUCT.**

~~**(I) (H)**~~ **(1) “FOOD OR BEVERAGE PRODUCT” MEANS A PRODUCT THAT IS:**

(I) USED FOR FOOD AND DRINK; AND

(II) MADE OF PLASTIC OR PAPER WITH A PLASTIC COATING.

(2) “FOOD OR BEVERAGE PRODUCT” INCLUDES:

(I) CONTAINERS;

- (II) FOOD SERVICE WARE AND UTENSILS; AND
- (III) STRAWS AND LIDS.

~~(H)~~ (I) “ISO 17556 STANDARD TEST METHOD” MEANS THE STANDARD TEST METHOD MEANS FOR DETERMINING THE ULTIMATE AEROBIC BIODEGRADABILITY OF PLASTIC MATERIALS IN SOIL BY MEASURING THE OXYGEN DEMAND IN A CLOSED RESPIROMETER OR THE AMOUNT OF CARBON DIOXIDE EVOLVED SET BY THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION.

~~(K)~~ (J) (1) “PLASTIC PRODUCT” MEANS A PRODUCT MADE OF PLASTIC, WHETHER ALONE OR IN COMBINATION WITH ANOTHER MATERIAL, INCLUDING PAPERBOARD.

(2) “PLASTIC PRODUCT” INCLUDES:

- (I) A PACKAGE OR A PACKAGING COMPONENT;
- (II) A FILM PLASTIC PRODUCT;
- (III) A FOOD OR BEVERAGE PRODUCT; AND

(IV) ANY OTHER PLASTIC PRODUCT OR PART OF A PLASTIC PRODUCT.

(3) “PLASTIC PRODUCT” DOES NOT INCLUDE A PERSONAL CARE PRODUCT REGULATED UNDER SUBTITLE 20 OF THIS TITLE.

~~(H)~~ (K) “VINCOTTE” MEANS THE BELGIAN-ACCREDITED INSPECTION AND CERTIFICATION ORGANIZATION.

9-2102.

(A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, ON OR AFTER OCTOBER 1, 2018, A PERSON MAY NOT SELL IN THE STATE A PLASTIC PRODUCT THAT IS LABELED AS BIODEGRADABLE, DEGRADABLE, DECOMPOSABLE, OR WITH ANY OTHER TERM TO IMPLY THAT THE PRODUCT WILL BREAK DOWN, FRAGMENT, BIODEGRADE, OR DECOMPOSE IN A LANDFILL OR ANY OTHER ENVIRONMENT.

(B) ON OR AFTER OCTOBER 1, 2018, A PERSON MAY NOT SELL IN THE STATE A PLASTIC PRODUCT THAT IS LABELED AS COMPOSTABLE, ~~MARINE DEGRADABLE,~~ OR HOME COMPOSTABLE UNLESS THE PLASTIC PRODUCT MEETS THE FOLLOWING STANDARDS:

(1) FOR A PLASTIC PRODUCT LABELED AS COMPOSTABLE, THE PLASTIC PRODUCT SHALL MEET:

- (i) 1. THE ASTM D6400 STANDARD SPECIFICATION; OR**
- 2. THE ASTM D6868 STANDARD SPECIFICATION; AND**

(ii) ANY APPLICABLE LABELING GUIDELINES IN THE FEDERAL GUIDES FOR THE USE OF ENVIRONMENTAL MARKETING CLAIMS.

~~**(2) FOR A PLASTIC PRODUCT LABELED AS MARINE DEGRADABLE, THE PLASTIC PRODUCT SHALL MEET:**~~

~~**(i) THE ASTM D7081 STANDARD SPECIFICATION; AND**~~

~~**(ii) ANY APPLICABLE LABELING GUIDELINES IN THE FEDERAL GUIDES FOR THE USE OF ENVIRONMENTAL MARKETING CLAIMS.**~~

~~**(3) FOR A PLASTIC PRODUCT LABELED AS HOME COMPOSTABLE, THE PLASTIC PRODUCT SHALL MEET:**~~

~~**(i) THE OK COMPOST HOME CERTIFICATION STANDARD ADOPTED BY VINCOTTE; AND**~~

~~**(ii) ANY APPLICABLE LABELING GUIDELINES IN THE FEDERAL GUIDES FOR THE USE OF ENVIRONMENTAL MARKETING CLAIMS.**~~

(c) ON OR AFTER OCTOBER 1, 2018, A PERSON MAY NOT SELL IN THE STATE A FILM PLASTIC PRODUCT LABELED AS SOIL DEGRADABLE AG MULCH FILM OR BIODEGRADABLE MULCH FILM UNLESS THE PRODUCT:

(1) (i) MEETS THE OK BIODEGRADABLE SOIL CERTIFICATION STANDARD ADOPTED BY VINCOTTE; OR

(ii) AT AMBIENT TEMPERATURES AND IN SOIL, SHOWS AT LEAST 90% BIODEGRADATION ABSOLUTE OR RELATIVE TO MICROCRYSTALLINE CELLULOSE IN LESS THAN 2 YEARS' TIME, TESTED ACCORDING TO THE ISO 17556 STANDARD TEST METHOD OR ASTM D5988 STANDARD TEST METHOD; AND

(2) FULFILLS THE PLANT GROWTH AND REGULATED METALS REQUIREMENTS UNDER SECTION 6.4 OF THE ASTM D6400 STANDARD SPECIFICATION.

9-2103.

(A) SUBJECT TO § 9-2102(B) OF THIS SUBTITLE AND SUBSECTION (B) OF THIS SECTION, ON AND AFTER OCTOBER 1, 2018, A PERSON THAT DISTRIBUTES OR SELLS A COMPOSTABLE PLASTIC BAG INTENDED FOR SALE OR DISTRIBUTION BY A RETAILER IN THE STATE SHALL ENSURE THAT THE COMPOSTABLE PLASTIC BAG IS:

(1) LABELED IN A MANNER THAT IS READILY AND EASILY IDENTIFIABLE FROM OTHER PLASTIC BAGS;

(2) LABELED IN A MANNER THAT IS CONSISTENT WITH THE FEDERAL GUIDES FOR THE USE OF ENVIRONMENTAL MARKETING CLAIMS;

(3) LABELED WITH A CERTIFICATION LOGO INDICATING THE BAG MEETS THE ASTM D6400 STANDARD SPECIFICATION; AND

(4) (I) A UNIFORM COLOR OF GREEN AND LABELED WITH THE WORD “COMPOSTABLE” IN AT LEAST A 1 INCH FONT ON ONE SIDE OF THE BAG;

(II) LABELED IN GREEN WRITING WITH THE WORD “COMPOSTABLE” IN AT LEAST A 1 INCH FONT ON BOTH SIDES OF THE BAG; OR

(III) LABELED WITH THE WORD “COMPOSTABLE” IN AT LEAST A ONE-HALF INCH FONT ON BOTH SIDES OF THE BAG WITHIN A GREEN COLOR BAND THAT:

1. CONTRASTS WITH THE COMPOSTABLE BAG’S BACKGROUND COLOR; AND

2. IS AT LEAST 1 INCH IN HEIGHT.

(B) IF A COMPOSTABLE PLASTIC BAG IS SMALLER THAN 14 INCHES BY 14 INCHES, THE COMPOSTABLE BAG MAY BE LABELED IN A MANNER THAT IS IN PROPORTION TO THE SIZE OF THE BAG.

(C) A COMPOSTABLE PLASTIC BAG SOLD OR DISTRIBUTED IN THE STATE MAY NOT BE LABELED AS RECYCLABLE.

(D) A PROVISION OF THIS SECTION HAS EFFECT ONLY TO THE EXTENT THAT THE PROVISION DOES NOT CONFLICT WITH THE FEDERAL GUIDES FOR THE USE OF ENVIRONMENTAL MARKETING CLAIMS.

9-2104.

(A) SUBJECT TO § 9-2102(B) OF THIS SUBTITLE, ON AND AFTER OCTOBER 1, 2018, A PERSON THAT DISTRIBUTES OR SELLS A COMPOSTABLE FOOD OR BEVERAGE PRODUCT INTENDED FOR SALE OR DISTRIBUTION BY A RETAILER IN THE STATE SHALL ENSURE THAT THE COMPOSTABLE FOOD OR BEVERAGE PRODUCT IS LABELED:

(1) IN A MANNER THAT IS READILY AND EASILY IDENTIFIABLE FROM OTHER FOOD OR BEVERAGE PRODUCTS;

(2) IN A MANNER THAT IS CONSISTENT WITH THE FEDERAL GUIDES FOR THE USE OF ENVIRONMENTAL MARKETING CLAIMS; AND

(3) (I) WITH A CERTIFICATION LOGO INDICATING THE COMPOSTABLE FOOD OR BEVERAGE PRODUCT MEETS THE ASTM D6400 STANDARD SPECIFICATION OR ASTM D6868 STANDARD SPECIFICATION; OR

(II) AS COMPOSTABLE.

(B) SUBSECTION (A) OF THIS SECTION HAS EFFECT ONLY TO THE EXTENT THAT THE PROVISION DOES NOT CONFLICT WITH THE FEDERAL GUIDES FOR THE USE OF ENVIRONMENTAL MARKETING CLAIMS.

9-2105.

(A) A PERSON THAT VIOLATES THIS SUBTITLE IS SUBJECT TO:

(1) FOR A FIRST VIOLATION, A CIVIL PENALTY OF \$500;

(2) FOR A SECOND VIOLATION, A CIVIL PENALTY OF \$1,000; AND

(3) FOR A THIRD AND SUBSEQUENT VIOLATION, A CIVIL PENALTY OF \$2,000.

(B) ANY PENALTIES COLLECTED UNDER THIS SECTION SHALL BE PAID TO THE COUNTY, MUNICIPALITY, OR OTHER LOCAL GOVERNMENT THAT BROUGHT THE ENFORCEMENT ACTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.