

HOUSE BILL 36

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(PRE-FILED)

By: **Delegates Lierman, Charkoudian, D. Jones, R. Lewis, Love, and Terrasa**

Requested: October 15, 2020

Introduced and read first time: January 13, 2021

Assigned to: Environment and Transportation and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Packaging, Containers, and Paper Products – Producer**
3 **Responsibility**

4 FOR the purpose of requiring, on or before a certain date, a certain producer of certain
5 packaging, containers, and paper products to individually or as part of a stewardship
6 organization submit a certain covered materials and products stewardship plan to
7 the Department of the Environment for review and approval; prohibiting, on or after
8 a certain date, a producer of certain covered materials and products from selling,
9 offering for sale, distributing, or importing certain covered materials and products
10 unless the producer, individually or as part of a stewardship organization, has an
11 approved stewardship plan on file with the Department; requiring the stewardship
12 plan to include certain information; requiring a stewardship plan to provide a certain
13 method for financing the implementation of the stewardship plan, including
14 establishing a certain fee structure for certain producers; requiring certain methods
15 of financing the stewardship plan to be evaluated by an independent financial
16 auditor, as designated by the Department, for certain purposes; requiring the
17 Department to approve or reject a certain stewardship plan within a certain period
18 of time under certain circumstances; requiring a certain producer or stewardship
19 organization to implement a stewardship plan within a certain amount of time after
20 the Department approves the stewardship plan; specifying that a certain producer
21 or stewardship organization is immune from certain liability under certain
22 circumstances; requiring a certain producer or stewardship organization to submit a
23 certain report, on or before a certain date each year, to the Department in accordance
24 with certain requirements; requiring the Department to review a certain report in
25 accordance with certain requirements; requiring an approved stewardship plan to
26 expire after a certain number of years; authorizing the Department to rescind
27 approval of a stewardship plan at any time; authorizing a local government to
28 request reimbursement from a certain producer that has an approved stewardship
29 plan on file with the Department for certain costs in a certain manner; requiring a
30 certain producer to submit a certain report to the Department on or before a certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 date each year and requiring the report to be posted on the website of the producer
2 or the Department; requiring the Department to keep certain data confidential;
3 requiring the Department to adopt certain regulations; establishing certain
4 penalties for certain violations; providing for the application of this Act; defining
5 certain terms; and generally relating to producer responsibility for packaging,
6 containers, and paper products.

7 BY adding to

8 Article – Environment

9 Section 9–2301 through 9–2308 to be under the new subtitle “Subtitle 23. Packaging,
10 Containers, and Paper Products”

11 Annotated Code of Maryland

12 (2014 Replacement Volume and 2020 Supplement)

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

15 **Article – Environment**

16 **SUBTITLE 23. PACKAGING, CONTAINERS, AND PAPER PRODUCTS.**

17 **9–2301.**

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

20 (B) (1) “COVERED MATERIALS AND PRODUCTS” MEANS, REGARDLESS OF
21 RECYCLABILITY:

22 (I) ANY PART OF A PACKAGE OR CONTAINER, INCLUDING
23 MATERIAL THAT IS USED FOR THE CONTAINMENT, PROTECTION, HANDLING,
24 DELIVERY, AND PRESENTATION OF A PRODUCT THAT IS SOLD, OFFERED FOR SALE,
25 IMPORTED, OR DISTRIBUTED IN THE STATE; AND

26 (II) PAPER PRODUCTS.

27 (2) “COVERED MATERIALS AND PRODUCTS” INCLUDES:

28 (I) PRIMARY, SECONDARY, AND TERTIARY PACKAGING
29 INTENDED FOR THE CONSUMER MARKET;

30 (II) SERVICE PACKAGING DESIGNED AND INTENDED TO BE
31 FILLED AT THE POINT OF SALE, INCLUDING:

32 1. CARRY-OUT BAGS;

- 1 2. **BULK GOODS BAGS;**
- 2 3. **TAKE-OUT AND HOME DELIVERY FOOD SERVICE**
- 3 **PACKAGING; AND**
- 4 4. **PRESCRIPTION BOTTLES;**
- 5 (III) **PAPER SOLD AS A PRODUCT;**
- 6 (IV) **PRINTED MATERIALS; AND**
- 7 (V) **BEVERAGE CONTAINERS.**

8 (3) **“COVERED MATERIALS AND PRODUCTS” DOES NOT INCLUDE ANY**
9 **LITERARY, TEXT, OR REFERENCE BOUND BOOK.**

10 (c) (1) **“PRODUCER” MEANS A PERSON THAT:**

11 (i) 1. **MANUFACTURES A COVERED MATERIAL OR PRODUCT**
12 **UNDER THE PERSON’S OWN NAME OR BRAND; AND**

13 2. **SELLS, OFFERS FOR SALE, OR DISTRIBUTES THE**
14 **COVERED MATERIAL OR PRODUCT IN THE STATE;**

15 (ii) **IMPORTS A COVERED MATERIAL OR PRODUCT AS OWNER OR**
16 **LICENSEE OF A TRADEMARK OR BRAND UNDER WHICH A COVERED MATERIAL OR**
17 **PRODUCT IS SOLD OR DISTRIBUTED IN THE STATE; OR**

18 (iii) **SELLS, OFFERS FOR SALE, OR DISTRIBUTES A COVERED**
19 **MATERIAL OR PRODUCT IN THE STATE.**

20 (2) **“PRODUCER” DOES NOT INCLUDE A LOCAL GOVERNMENT.**

21 (d) **“STEWARDSHIP ORGANIZATION” MEANS A NONPROFIT ORGANIZATION**
22 **CREATED BY A GROUP OF PRODUCERS TO IMPLEMENT A STEWARDSHIP PLAN.**

23 (e) **“STEWARDSHIP PLAN” MEANS A COVERED MATERIALS AND PRODUCTS**
24 **STEWARDSHIP PLAN DEVELOPED BY A PRODUCER OR STEWARDSHIP ORGANIZATION**
25 **IN ACCORDANCE WITH § 9-2303 OF THIS SUBTITLE.**

26 **9-2302.**

1 **THIS SUBTITLE DOES NOT APPLY TO A PRODUCER THAT:**

2 **(1) (I) GENERATED LESS THAN \$1,000,000 IN GROSS REVENUE**
3 **DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR;**

4 **(II) SOLD, OFFERED FOR SALE, OR DISTRIBUTED FOR SALE IN**
5 **THE STATE DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR LESS THAN 1**
6 **TON OF COVERED MATERIALS OR PRODUCTS; OR**

7 **(III) CONDUCTED ALL OF THE COVERED MATERIALS OR**
8 **PRODUCTS SALES IN THE STATE DURING THE IMMEDIATELY PRECEDING CALENDAR**
9 **YEAR AT A SINGLE POINT OF RETAIL SALE THAT WAS NOT SUPPLIED OR OPERATED**
10 **AS PART OF A FRANCHISE; AND**

11 **(2) ON REQUEST BY THE DEPARTMENT, PROVIDES TO THE**
12 **DEPARTMENT SUFFICIENT INFORMATION TO DEMONSTRATE THAT THE PRODUCER**
13 **MEETS THE CONDITIONS OF THIS SECTION.**

14 **9-2303.**

15 **(A) (1) ON OR BEFORE OCTOBER 1, 2022, EACH PRODUCER SHALL,**
16 **INDIVIDUALLY OR AS PART OF A STEWARDSHIP ORGANIZATION, SUBMIT A**
17 **STEWARDSHIP PLAN TO THE DEPARTMENT FOR REVIEW AND APPROVAL.**

18 **(2) ON OR AFTER OCTOBER 1, 2024, A PRODUCER MAY NOT SELL,**
19 **OFFER FOR SALE, DISTRIBUTE, OR IMPORT FOR SALE OR DISTRIBUTION COVERED**
20 **MATERIALS OR PRODUCTS FOR USE IN THE STATE UNLESS THE PRODUCER,**
21 **INDIVIDUALLY OR AS PART OF A STEWARDSHIP ORGANIZATION, HAS AN APPROVED**
22 **STEWARDSHIP PLAN ON FILE WITH THE DEPARTMENT.**

23 **(B) A STEWARDSHIP PLAN SHALL:**

24 **(1) LIST THE PRODUCERS AND BRANDS COVERED BY THE**
25 **STEWARDSHIP PLAN, INCLUDING:**

26 **(I) EACH PARTICIPATING PRODUCER AND THE STEWARDSHIP**
27 **ORGANIZATION'S CONTACT INFORMATION; AND**

28 **(II) EACH BRAND OF COVERED MATERIALS AND PRODUCTS**
29 **COVERED BY THE STEWARDSHIP PLAN;**

30 **(2) INCLUDE PERFORMANCE GOALS FOR A MINIMUM POSTCONSUMER**
31 **RECYCLED MATERIAL CONTENT RATE AND A MINIMUM RECYCLING RATE FOR**

1 COVERED MATERIALS OR PRODUCTS THAT INCLUDES, AT A MINIMUM, A GOAL FOR:

2 (I) ALL SINGLE-USE PACKAGING AND PRODUCTS TO BE AT
3 LEAST 75% POSTCONSUMER CONTENT BY OCTOBER 1, 2027;

4 (II) ALL SINGLE-USE PACKAGING AND PRODUCTS TO BE
5 READILY RECYCLABLE OR COMPOSTABLE BY OCTOBER 1, 2030; AND

6 (III) ALL SINGLE-USE PLASTIC PACKAGING AND SINGLE-USE
7 PLASTIC FOODWARE TO BE REDUCED, TO THE MAXIMUM EXTENT PRACTICABLE, AND
8 BY NOT LESS THAN 25% BY OCTOBER 1, 2030;

9 (3) DESCRIBE, IN ACCORDANCE WITH SUBSECTION (C) OF THIS
10 SECTION, THE FINANCING METHOD THAT WILL BE USED TO IMPLEMENT THE
11 STEWARDSHIP PLAN;

12 (4) DESCRIBE HOW THE PERFORMANCE GOALS UNDER ITEM (2) OF
13 THIS SUBSECTION WILL BE MET OR EXCEEDED;

14 (5) DESCRIBE HOW STAKEHOLDER COMMENTS WERE CONSIDERED IN
15 THE DEVELOPMENT OF THE STEWARDSHIP PLAN;

16 (6) DESCRIBE HOW STAFFING AND ADMINISTERING THE
17 IMPLEMENTATION OF THE STEWARDSHIP PLAN WILL BE HANDLED;

18 (7) DESCRIBE HOW PRODUCERS PARTICIPATING IN A STEWARDSHIP
19 PLAN WILL WORK TOGETHER TO REDUCE PACKAGING THROUGH PRODUCT DESIGN
20 AND PROGRAM INNOVATIONS;

21 (8) DESCRIBE THE ACTIONS TAKEN OR THAT WILL BE TAKEN FOR
22 PUBLIC OUTREACH, EDUCATION, AND COMMUNICATION, TAKING INTO ACCOUNT
23 THAT PUBLIC OUTREACH, EDUCATION, AND COMMUNICATION SHALL:

24 (I) PROMOTE THE PROPER END-OF-LIFE MANAGEMENT OF
25 COVERED MATERIALS AND PRODUCTS, INCLUDING BEVERAGE CONTAINERS;

26 (II) PROVIDE INFORMATION ON HOW TO PREVENT LITTER OF
27 COVERED MATERIALS AND PRODUCTS, INCLUDING BEVERAGE CONTAINERS;

28 (III) PROVIDE RECYCLING AND COMPOSTING INSTRUCTIONS
29 THAT ARE, TO THE EXTENT PRACTICABLE:

30 1. CONSISTENT STATEWIDE, TAKING INTO ACCOUNT

1 DIFFERENCES AMONG LOCAL LAWS AND PROCESSING CAPABILITIES;

2 2. EASY TO UNDERSTAND; AND

3 3. EASILY ACCESSIBLE; AND

4 (IV) PROVIDE FOR OUTREACH AND EDUCATION THAT ARE:

5 1. DESIGNED TO ACHIEVE COVERED MATERIALS AND
6 PRODUCTS MANAGEMENT GOALS AND REQUIREMENTS, INCLUDING THE
7 PREVENTION OF CONTAMINATION OF COVERED MATERIALS AND PRODUCTS;

8 2. COORDINATED ACROSS PROGRAMS TO AVOID
9 CONFUSION FOR CONSUMERS; AND

10 3. DEVELOPED IN CONSULTATION WITH LOCAL
11 GOVERNMENTS AND OTHER STAKEHOLDERS; AND

12 (9) INCLUDE ANY OTHER INFORMATION THAT IS REQUIRED BY THE
13 DEPARTMENT.

14 (C) (1) THE FINANCING METHOD THAT WILL BE USED BY A PRODUCER OR
15 STEWARDSHIP ORGANIZATION TO IMPLEMENT A STEWARDSHIP PLAN SHALL:

16 (I) PROVIDE THE METHOD FOR REIMBURSING LOCAL
17 GOVERNMENTS FOR COSTS ASSOCIATED WITH COLLECTING, TRANSPORTING, AND
18 PROCESSING COVERED MATERIALS AND PRODUCTS THAT ARE LISTED IN THE
19 STEWARDSHIP PLAN;

20 (II) ESTABLISH A FEE STRUCTURE FOR PARTICIPATING
21 PRODUCERS THAT IS SET IN A MANNER TO COVER COSTS ASSOCIATED WITH:

22 1. IMPLEMENTING THE STEWARDSHIP PLAN,
23 INCLUDING THE ADMINISTRATIVE COSTS OF A PRODUCER OR STEWARDSHIP
24 ORGANIZATION;

25 2. REIMBURSING LOCAL GOVERNMENTS FOR COSTS IN
26 ACCORDANCE WITH PARAGRAPH (1)(I) OF THIS SUBSECTION; AND

27 3. THE ADMINISTRATION, REVIEW, OVERSIGHT, AND
28 ENFORCEMENT OF THE STEWARDSHIP PLAN BY THE DEPARTMENT;

29 (III) 1. DESCRIBE THE INCENTIVES TO ENCOURAGE

1 PARTICIPATING PRODUCERS TO ENGAGE IN WASTE REDUCTION AND RECYCLING
2 ACTIVITIES; AND

3 2. DESCRIBE THE DISINCENTIVES TO DISCOURAGE
4 DESIGNS OR PRACTICES THAT INCREASE THE COST OF MANAGING COVERED
5 MATERIALS AND PRODUCTS;

6 (IV) BE EVALUATED BY AN INDEPENDENT FINANCIAL AUDITOR,
7 AS DESIGNATED BY THE DEPARTMENT, TO ENSURE THE COSTS OF IMPLEMENTING
8 THE STEWARDSHIP PLAN ARE COVERED; AND

9 (V) MEET ANY OTHER REQUIREMENT ESTABLISHED BY THE
10 DEPARTMENT BY REGULATION.

11 (2) THE FEE STRUCTURE ESTABLISHED UNDER PARAGRAPH (1)(II)
12 OF THIS SUBSECTION MAY BE VARIABLE BASED ON:

13 (I) COSTS ASSOCIATED WITH TRANSPORTING, COLLECTING,
14 AND PROCESSING COVERED MATERIALS AND PRODUCTS; AND

15 (II) ANY OTHER FACTOR, AS DETERMINED BY THE
16 DEPARTMENT.

17 (D) THE DEPARTMENT SHALL REVIEW:

18 (1) THE STEWARDSHIP PLAN REQUIRED UNDER SUBSECTION (A) OF
19 THIS SECTION; AND

20 (2) THE WORK PRODUCT OF THE INDEPENDENT FINANCIAL AUDITOR
21 DESIGNATED BY THE DEPARTMENT TO EVALUATE THE FINANCING COMPONENT OF
22 THE STEWARDSHIP PLAN UNDER SUBSECTION (C)(1)(IV) OF THIS SECTION.

23 (E) (1) WITHIN 90 DAYS AFTER RECEIVING A PROPOSED STEWARDSHIP
24 PLAN, THE DEPARTMENT SHALL APPROVE, APPROVE WITH CONDITIONS, OR REJECT
25 THE STEWARDSHIP PLAN.

26 (2) IN MAKING A DETERMINATION UNDER PARAGRAPH (1) OF THIS
27 SUBSECTION, THE DEPARTMENT SHALL CONSIDER WHETHER:

28 (I) THE STEWARDSHIP PLAN COMPLIES WITH THE
29 REQUIREMENTS OF THIS SECTION, INCLUDING WHETHER THE FINANCING METHOD
30 WILL COVER THE COSTS OF IMPLEMENTING THE STEWARDSHIP PLAN; AND

1 **(II) THE PRODUCER, INDIVIDUALLY OR AS PART OF A**
2 **STEWARDSHIP ORGANIZATION, ENGAGED SUFFICIENTLY WITH STAKEHOLDERS,**
3 **INCLUDING LOCAL GOVERNMENTS, IN DEVELOPING THE STEWARDSHIP PLAN;**

4 **(F) WITHIN 6 MONTHS AFTER THE DATE A STEWARDSHIP PLAN IS**
5 **APPROVED UNDER THIS SECTION, A PRODUCER OR STEWARDSHIP ORGANIZATION**
6 **SHALL IMPLEMENT THE STEWARDSHIP PLAN.**

7 **(G) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN APPROVED**
8 **STEWARDSHIP PLAN SHALL EXPIRE AFTER 5 YEARS.**

9 **(2) THE DEPARTMENT MAY RESCIND APPROVAL OF A STEWARDSHIP**
10 **PLAN AT ANY TIME.**

11 **9-2304.**

12 **A LOCAL GOVERNMENT MAY REQUEST REIMBURSEMENT FROM A PRODUCER**
13 **OR STEWARDSHIP ORGANIZATION THAT HAS AN APPROVED STEWARDSHIP PLAN ON**
14 **FILE WITH THE DEPARTMENT FOR COSTS ASSOCIATED WITH COLLECTING,**
15 **TRANSPORTING, AND PROCESSING COVERED MATERIALS AND PRODUCTS THAT ARE**
16 **LISTED UNDER THE STEWARDSHIP PLAN, IN ACCORDANCE WITH:**

17 **(1) THE REQUIREMENTS OF THE PRODUCER, AS ESTABLISHED**
18 **UNDER THE STEWARDSHIP PLAN; AND**

19 **(2) ANY OTHER REQUIREMENT ADOPTED BY THE DEPARTMENT BY**
20 **REGULATION.**

21 **9-2305.**

22 **(A) ON OR BEFORE OCTOBER 1, 2023, AND EACH OCTOBER 1 THEREAFTER,**
23 **A PRODUCER SHALL SUBMIT A REPORT TO THE DEPARTMENT, IN A MANNER**
24 **REQUIRED BY THE DEPARTMENT, EVALUATING PROGRESS TOWARD MEETING**
25 **STEWARDSHIP PLAN REQUIREMENTS AND GOALS FOR THE IMMEDIATELY**
26 **PRECEDING YEAR.**

27 **(B) FINANCIAL, PRODUCTION, OR SALES DATA REPORTED TO THE**
28 **DEPARTMENT BY A PRODUCER, INDIVIDUALLY OR AS PART OF A STEWARDSHIP**
29 **ORGANIZATION, SHALL BE KEPT CONFIDENTIAL BY THE DEPARTMENT AND MAY NOT**
30 **BE SUBJECT TO PUBLIC INSPECTION.**

31 **(C) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE REPORT SHALL BE**
32 **POSTED ON THE WEBSITE OF THE DEPARTMENT AND THE PRODUCER OR**

1 STEWARDSHIP ORGANIZATION.

2 **9-2306.**

3 ANY PERSON PARTICIPATING IN A STEWARDSHIP PLAN IN COMPLIANCE WITH
4 THIS SUBTITLE IS IMMUNE FROM LIABILITY UNDER STATE LAW RELATING TO
5 ANTITRUST AND RESTRAINT OF TRADE FOR ANY COOPERATED ACTIVITIES ARISING
6 OUT OF THE RECYCLING, REUSE, AND DISPOSAL OF COVERED MATERIALS AND
7 PRODUCTS.

8 **9-2307.**

9 THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS
10 SUBTITLE.

11 **9-2308.**

12 (A) A PRODUCER OR STEWARDSHIP ORGANIZATION THAT VIOLATES THIS
13 SUBTITLE IS SUBJECT TO:

14 (1) FOR A FIRST VIOLATION, A CIVIL PENALTY OF \$5,000;

15 (2) FOR A SECOND VIOLATION, A CIVIL PENALTY OF \$10,000; AND

16 (3) FOR A THIRD AND SUBSEQUENT VIOLATION, A CIVIL PENALTY OF
17 \$20,000.

18 (B) IF A PENALTY IS IMPOSED ON A STEWARDSHIP ORGANIZATION UNDER
19 THIS SECTION, EACH PRODUCER PARTICIPATING IN THE STEWARDSHIP
20 ORGANIZATION IS JOINTLY AND SEVERALLY LIABLE FOR THE PAYMENT OF THE
21 PENALTY.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2021.