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CHAPTER _____

1 AN ACT concerning

2 **Procurement - Environmentally Preferable Products and Equipment -**
3 **Report and Purchase**

4 FOR the purpose of ~~requiring each State unit to purchase certain environmentally~~
5 ~~preferable products and equipment under a certain circumstance; providing for~~
6 ~~the application of certain dispute resolution procedures; requiring the Board of~~
7 ~~Public Works to adopt certain regulations by a certain date and to maintain and~~
8 ~~make available a certain listing; requiring the Secretary of General Services to~~
9 ~~review, evaluate, and report to certain persons by a certain date regarding~~
10 ~~certain aspects of the procurement and use of certain environmentally~~
11 ~~preferable products and equipment; requiring the Secretary to seek certain~~
12 ~~information and recommendations from certain persons regarding a certain~~
13 ~~impact of State procurement of certain environmentally preferable products and~~
14 ~~equipment; requiring each State unit to provide certain information at a certain~~
15 ~~time, to establish certain objectives and goals by a certain date, and to initiate~~
16 ~~certain processes; expressing certain findings of the General Assembly;~~
17 ~~providing for the application of this Act; defining certain terms; providing for the~~
18 ~~delayed effective date of certain provisions of this Act requiring the Secretary of~~
19 General Services and the Secretary of Budget and Management to review,
20 evaluate, and report to certain committees on or before a certain date regarding
21 certain aspects of the procurement and use of certain vehicles; providing for the
22 termination of certain provisions of this Act; and generally relating to the
23 procurement of environmentally preferable products and equipment.

1 ~~BY~~ repealing
 2 ~~Article—State Finance and Procurement~~
 3 ~~Section 14-402, 14-405, and 14-406~~
 4 ~~Annotated Code of Maryland~~
 5 ~~(2001 Replacement Volume and 2002 Supplement)~~

6 ~~BY~~ adding to
 7 ~~Article—State Finance and Procurement~~
 8 ~~Section 14-402~~
 9 ~~Annotated Code of Maryland~~
 10 ~~(2001 Replacement Volume and 2002 Supplement)~~

11 ~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF~~
 12 ~~MARYLAND, That Section(s) 14-402, 14-405, and 14-406 of Article—State Finance~~
 13 ~~and Procurement of the Annotated Code of Maryland be repealed.~~

14 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland~~
 15 ~~read as follows:~~

16 ~~**Article—State Finance and Procurement**~~

17 ~~14-402.~~

18 (A) (1) ~~IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~
 19 ~~INDICATED.~~

20 (2) ~~"ENVIRONMENTALLY PREFERABLE PRODUCTS AND EQUIPMENT"~~
 21 ~~MEANS PRODUCTS, INCLUDING SUPPLIES, AND EQUIPMENT MANUFACTURED AND~~
 22 ~~DESIGNED FOR UTILIZATION IN ACCORDANCE WITH A BROAD RANGE OF MEASURES~~
 23 ~~THAT PREVENT OR MINIMIZE ENVIRONMENTAL DEGRADATION, INCLUDING:~~

24 (I) ~~RESOURCE CONSERVATION;~~

25 (II) ~~SOURCE REDUCTION;~~

26 (III) ~~WASTE MINIMIZATION;~~

27 (IV) ~~RECYCLING;~~

28 (V) ~~USE OF INNOVATIVE TECHNOLOGY; OR~~

29 (VI) ~~USE OF COMPONENTS THAT ARE FREE OF TOXIC OR~~
 30 ~~DEGRADING AGENTS OR CONTAIN THE LEAST AMOUNT OF TOXIC OR DEGRADING~~
 31 ~~AGENTS NECESSARY TO MEET APPLICABLE JOB SPECIFICATIONS.~~

32 (3) ~~"PERFORMANCE STANDARD" MEANS THE RATING OF THE~~
 33 ~~EFFICIENCY AND OVERALL IMPACT OF PRODUCTS AND EQUIPMENT IN~~
 34 ~~CONSIDERATION OF:~~

- 1 (I) APPLICABLE JOB SPECIFICATIONS;
- 2 (II) INITIAL PURCHASE PRICE, MAINTENANCE COSTS ASSOCIATED
3 WITH DURABILITY AND APPLICABLE WARRANTIES, AND DELIVERY OPTIONS;
- 4 (III) PUBLIC HEALTH, ENERGY, AND ENVIRONMENTAL BENEFITS
5 OVER THE LIFE OF THE PRODUCTS OR EQUIPMENT; AND
- 6 (IV) CONTRACTS AWARDED TO MINORITY AND WOMEN OWNED
7 BUSINESSES.
- 8 (4) (I) "RECYCLING" MEANS THE RECOVERY OF USEABLE MATERIAL
9 FROM MATERIAL OTHERWISE DESTINED FOR THE WASTE STREAM.
- 10 (II) "RECYCLING" INCLUDES THE RECOVERY OF POST CONSUMER
11 MATERIAL, INDUSTRIAL SCRAP MATERIAL, COMPOST, AND OBSOLETE INVENTORIES.
- 12 (B) THE GENERAL ASSEMBLY FINDS THAT:
- 13 (1) LONG TERM ENVIRONMENTALLY SUSTAINABLE PRACTICES WORK
14 TO ENSURE THAT FUTURE GENERATIONS WILL ENJOY CLEAN AIR, CLEAN WATER,
15 AND OPEN SPACE AND HAVE ACCESS TO THE SAME, IF NOT BETTER, QUALITY OF LIFE
16 OUR CITIZENS ENJOY TODAY;
- 17 (2) THE STATE OF MARYLAND CONDUCTS BUSINESS AND EMPLOYS A
18 SIGNIFICANT NUMBER OF PERSONS THROUGHOUT THE STATE;
- 19 (3) IT IS IMPERATIVE FOR STATE GOVERNMENT TO LEAD IN THE
20 PROMOTION OF PRACTICES AND POLICIES THAT ELIMINATE OR MINIMIZE NEGATIVE
21 ENVIRONMENTAL AND HEALTH IMPACTS AND THAT MAINTAIN OR IMPROVE THE
22 HEALTH, ENVIRONMENTAL, AND ECONOMIC INTERESTS OF THE STATE; AND
- 23 (4) STATE AGENCIES, THROUGH CHANGES IN DAILY OPERATIONS,
24 ONGOING PROGRAMS, AND LONG-RANGE PLANNING, PARTICULARLY IN
25 PROCUREMENT, CAN HAVE A SIGNIFICANT POSITIVE IMPACT ON THE
26 ENVIRONMENT, THE PRIVATE SECTOR, THE ECONOMIC CLIMATE AND STABILITY OF
27 THE STATE, AND THE CHARACTER OF OUR COMMUNITIES THROUGHOUT THE STATE.
- 28 (C) (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION,
29 THIS SECTION IS BROADLY APPLICABLE TO ALL PROCUREMENTS BY THE STATE IF
30 THE QUALITY OF PRODUCTS OR EQUIPMENT IS CONSISTENT WITH THE
31 REQUIREMENTS OF THE BID SPECIFICATIONS.
- 32 (2) ONLY TO THE EXTENT NECESSARY TO PREVENT THE DENIAL OF
33 FEDERAL MONEYS OR ELIMINATE THE INCONSISTENCY WITH FEDERAL LAW, THIS
34 SECTION DOES NOT APPLY TO A PROCUREMENT BY THE STATE IF THE
35 PROCUREMENT OFFICER DETERMINES THAT COMPLIANCE WITH THIS SECTION
36 WOULD:
- 37 (I) CAUSE DENIAL OF FEDERAL MONEYS; OR

1 (H) ~~BE INCONSISTENT WITH THE REQUIREMENTS OF FEDERAL~~
2 ~~LAW.~~

3 ~~(D) EACH STATE UNIT SHALL PURCHASE ENVIRONMENTALLY PREFERABLE~~
4 ~~PRODUCTS AND EQUIPMENT IF THE ENVIRONMENTALLY PREFERABLE PRODUCTS~~
5 ~~AND EQUIPMENT MEET OR EXCEED THE PERFORMANCE STANDARDS OF OTHER~~
6 ~~PRODUCTS AND EQUIPMENT.~~

7 ~~(E) THE PROVISIONS OF TITLE 15, SUBTITLE 2 OF THIS ARTICLE APPLY TO ANY~~
8 ~~PROTEST UNDER THIS SECTION.~~

9 ~~(F) THE BOARD SHALL:~~

10 ~~(1) ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS~~
11 ~~SECTION; AND~~

12 ~~(2) MAINTAIN AND MAKE GENERALLY AVAILABLE A CURRENT LISTING~~
13 ~~OF ENVIRONMENTALLY PREFERABLE PRODUCTS AND EQUIPMENT.~~

14 ~~SECTION 3. AND BE IT FURTHER ENACTED, That:~~

15 ~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF~~
16 ~~MARYLAND, That:~~

17 ~~(a) In this section, "environmentally preferable products and equipment"~~
18 ~~means products, including supplies, and equipment manufactured and designed for~~
19 ~~utilization in accordance with a broad range of measures that prevent or minimize~~
20 ~~environmental degradation, including:~~

21 ~~(1) Resource conservation;~~

22 ~~(2) Source reduction;~~

23 ~~(3) Waste minimization;~~

24 ~~(4) Recycling;~~

25 ~~(5) Use of innovative technology; and~~

26 ~~(6) Use of components that are free of toxic or degrading agents or~~
27 ~~contain the least amount of toxic or degrading agents necessary to meet applicable job~~
28 ~~specifications.~~

29 ~~(a) (b) On or before October 1, 2004, the Secretary of General Services shall~~
30 ~~review, evaluate, and report to the Board of Public Works and, in accordance with §~~
31 ~~2-1246 of the State Government Article, the General Assembly regarding the actual~~
32 ~~and potential procurement and use by each State unit of environmentally preferable~~
33 ~~products and equipment, which is defined under § 14-402(a)(2) of the State Finance~~
34 ~~and Procurement Article, as enacted under Section 2 of this Act, including:~~

1 (1) ~~the identification and listing of environmentally preferable products~~
2 ~~and equipment that could be utilized by each State unit and manufacturers of these~~
3 ~~products and equipment~~ the feasibility of a pilot program to institute the
4 test-marketing of environmentally preferable products and equipment to State units;

5 (2) ~~the short term and long term impacts on the State budget,~~
6 ~~including, for each State unit:~~

7 (i) ~~full cost implications of environmental sustainability efforts,~~
8 ~~such as short and long term costs, and purchase, operational, storage, and disposal~~
9 ~~costs;~~

10 (ii) ~~the amount of time necessary for initial costs to be repaid from~~
11 ~~savings achieved by environmentally preferable investments, other long-term cost~~
12 ~~savings, productivity enhancements, and any other benefits achieved or losses~~
13 ~~realized; and~~

14 (iii) ~~(3)~~ ~~the availability of alternative funding sources for the~~
15 ~~purchase of environmentally preferable products and equipment; and~~

16 (3) ~~anticipated environmental benefits, including:~~

17 (i) ~~conservation benefits realized, such as reduction of greenhouse~~
18 ~~gas emissions, minimization of solid waste, removal of mercury from agency waste~~
19 ~~streams, and harvest of fewer trees;~~

20 (ii) ~~reduction of energy consumption through energy efficiency and~~
21 ~~conservation;~~

22 (iii) ~~decreased water consumption through conservation, efficiency,~~
23 ~~and prevention strategies;~~

24 (iv) ~~policies and practices currently in use by individual State units~~
25 ~~to promote sustainable environmental goals that could be utilized in other units of~~
26 ~~State government; and~~

27 (v) ~~the feasibility of a pilot program to institute the test marketing~~
28 ~~of environmentally preferable products and equipment to State units;~~

29 (4) ~~the short-term and long-term impacts on the overall economy and~~
30 ~~business climate of the State, including the development of private industry as a~~
31 ~~result of the increased demand and stable market for environmentally preferable~~
32 ~~products and equipment, such as annual revenue generated, the number of jobs~~
33 ~~created, and the amount of revenue to be contributed to the State;~~

34 (5) ~~the nature and extent of education, outreach, and management~~
35 ~~programs necessary to effect environmentally preferable changes throughout all State~~
36 ~~units, including:~~

37 (i) ~~promotion of:~~

1 1. ~~planning efforts, including the siting, design, construction,~~
2 ~~and management of State facilities, in an environmentally sound and resource~~
3 ~~efficient manner;~~

4 2. ~~changes in employee practices; and~~

5 3. ~~the initiation and expansion of integrated pest~~
6 ~~management practices; and~~

7 (ii) ~~pilot programs, vendor fairs, workshops, and dissemination of~~
8 ~~resource materials on environmental purchasing; and~~

9 (6) ~~any legislative or regulatory changes necessary in order for each~~
10 ~~State unit to maximize its purchase and use of environmentally preferable products~~
11 ~~and equipment.~~

12 (b) In the preparation of the review, evaluation, and report required under
13 this section, the Secretary of General Services shall seek pertinent information and
14 recommendations from representatives of the business community regarding the
15 likely impact of State procurement of environmentally preferable products and
16 equipment, including:

17 (1) any business that, as of July 1, 2003, has a contract with the State for
18 the provision of products, equipment, or services; and

19 (2) any business engaged in the manufacture, sale, distribution, or
20 repair of environmentally preferable products or equipment within the State of
21 Maryland, including small resource-based businesses and entrepreneurs.

22 (c) Each State unit shall:

23 (1) timely provide all procurement information requested by the
24 Secretary of General Services in connection with the review, evaluation, and report
25 required under this section;

26 (2) by January 1, 2005, establish short-term objectives and long-range
27 goals to maximize the use of environmentally preferable products and equipment; and

28 (3) initiate processes to review internal operations, identify
29 environmental impacts, and make recommendations for the reduction of the
30 environmental impact of its operations.

31 ~~SECTION 4. AND BE IT FURTHER ENACTED, That the Board of Public~~
32 ~~Works shall adopt the regulations required under § 14-402(e) of the State Finance~~
33 ~~and Procurement Article, as enacted under Section 2 of this Act, by December 31,~~
34 ~~2005.~~

35 SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of General
36 Services shall review, evaluate, and report to the House Health and Government
37 Operations Committee and the Senate Education, Health, and Environmental Affairs

1 Committee on or before December 31, 2003, in accordance with § 2-1246 of the State
2 Government Article, on the potential procurement and use by each State unit of
3 hybrid electric vehicles, including the potential expenditures involved and potential
4 savings that might be realized.

5 SECTION ~~5~~ 3. AND BE IT FURTHER ENACTED, That ~~Section 3~~ of this Act
6 shall take effect June 1, 2003. It shall remain effective for a period of 1 year and 7
7 months and, at the end of December 31, 2004, with no further action required by the
8 General Assembly, Section 3 of this Act shall be abrogated and of no further force and
9 effect.

10 SECTION ~~6~~. AND BE IT FURTHER ENACTED, That, ~~except as provided in~~
11 ~~Section 5 of this Act, this Act shall take effect July 1, 2005.~~