

SENATE BILL 541

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2003 Regular Session
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By: **Senator Grosfeld**

Introduced and read first time: January 31, 2003

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

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; providing for the
19 termination of certain provisions of this Act; and generally relating to the
20 procurement of environmentally preferable products and equipment.

21 BY repealing

22 Article - State Finance and Procurement
23 Section 14-402, 14-405, and 14-406
24 Annotated Code of Maryland
25 (2001 Replacement Volume and 2002 Supplement)

26 BY adding to

27 Article - State Finance and Procurement
28 Section 14-402
29 Annotated Code of Maryland
30 (2001 Replacement Volume and 2002 Supplement)

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3 and Procurement of the Annotated Code of Maryland be repealed.

4 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
5 read as follows:

6 **Article - State Finance and Procurement**

7 14-402.

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

10 (2) "ENVIRONMENTALLY PREFERABLE PRODUCTS AND EQUIPMENT"
11 MEANS PRODUCTS, INCLUDING SUPPLIES, AND EQUIPMENT MANUFACTURED AND
12 DESIGNED FOR UTILIZATION IN ACCORDANCE WITH A BROAD RANGE OF MEASURES
13 THAT PREVENT OR MINIMIZE ENVIRONMENTAL DEGRADATION, INCLUDING:

14 (I) RESOURCE CONSERVATION;

15 (II) SOURCE REDUCTION;

16 (III) WASTE MINIMIZATION;

17 (IV) RECYCLING;

18 (V) USE OF INNOVATIVE TECHNOLOGY; OR

19 (VI) USE OF COMPONENTS THAT ARE FREE OF TOXIC OR
20 DEGRADING AGENTS OR CONTAIN THE LEAST AMOUNT OF TOXIC OR DEGRADING
21 AGENTS NECESSARY TO MEET APPLICABLE JOB SPECIFICATIONS.

22 (3) "PERFORMANCE STANDARD" MEANS THE RATING OF THE
23 EFFICIENCY AND OVERALL IMPACT OF PRODUCTS AND EQUIPMENT IN
24 CONSIDERATION OF:

25 (I) APPLICABLE JOB SPECIFICATIONS;

26 (II) INITIAL PURCHASE PRICE, MAINTENANCE COSTS ASSOCIATED
27 WITH DURABILITY AND APPLICABLE WARRANTIES, AND DELIVERY OPTIONS;

28 (III) PUBLIC HEALTH, ENERGY, AND ENVIRONMENTAL BENEFITS
29 OVER THE LIFE OF THE PRODUCTS OR EQUIPMENT; AND

30 (IV) CONTRACTS AWARDED TO MINORITY AND WOMEN-OWNED
31 BUSINESSES.

32 (4) (I) "RECYCLING" MEANS THE RECOVERY OF USEABLE MATERIAL
33 FROM MATERIAL OTHERWISE DESTINED FOR THE WASTE STREAM.

1 (II) "RECYCLING" INCLUDES THE RECOVERY OF POST-CONSUMER
2 MATERIAL, INDUSTRIAL SCRAP MATERIAL, COMPOST, AND OBSOLETE INVENTORIES.

3 (B) THE GENERAL ASSEMBLY FINDS THAT:

4 (1) LONG-TERM ENVIRONMENTALLY SUSTAINABLE PRACTICES WORK
5 TO ENSURE THAT FUTURE GENERATIONS WILL ENJOY CLEAN AIR, CLEAN WATER,
6 AND OPEN SPACE AND HAVE ACCESS TO THE SAME, IF NOT BETTER, QUALITY OF LIFE
7 OUR CITIZENS ENJOY TODAY;

8 (2) THE STATE OF MARYLAND CONDUCTS BUSINESS AND EMPLOYS A
9 SIGNIFICANT NUMBER OF PERSONS THROUGHOUT THE STATE;

10 (3) IT IS IMPERATIVE FOR STATE GOVERNMENT TO LEAD IN THE
11 PROMOTION OF PRACTICES AND POLICIES THAT ELIMINATE OR MINIMIZE NEGATIVE
12 ENVIRONMENTAL AND HEALTH IMPACTS AND THAT MAINTAIN OR IMPROVE THE
13 HEALTH, ENVIRONMENTAL, AND ECONOMIC INTERESTS OF THE STATE; AND

14 (4) STATE AGENCIES, THROUGH CHANGES IN DAILY OPERATIONS,
15 ONGOING PROGRAMS, AND LONG-RANGE PLANNING, PARTICULARLY IN
16 PROCUREMENT, CAN HAVE A SIGNIFICANT POSITIVE IMPACT ON THE
17 ENVIRONMENT, THE PRIVATE SECTOR, THE ECONOMIC CLIMATE AND STABILITY OF
18 THE STATE, AND THE CHARACTER OF OUR COMMUNITIES THROUGHOUT THE STATE.

19 (C) (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION,
20 THIS SECTION IS BROADLY APPLICABLE TO ALL PROCUREMENTS BY THE STATE IF
21 THE QUALITY OF PRODUCTS OR EQUIPMENT IS CONSISTENT WITH THE
22 REQUIREMENTS OF THE BID SPECIFICATIONS.

23 (2) ONLY TO THE EXTENT NECESSARY TO PREVENT THE DENIAL OF
24 FEDERAL MONEYS OR ELIMINATE THE INCONSISTENCY WITH FEDERAL LAW, THIS
25 SECTION DOES NOT APPLY TO A PROCUREMENT BY THE STATE IF THE
26 PROCUREMENT OFFICER DETERMINES THAT COMPLIANCE WITH THIS SECTION
27 WOULD:

28 (I) CAUSE DENIAL OF FEDERAL MONEYS; OR

29 (II) BE INCONSISTENT WITH THE REQUIREMENTS OF FEDERAL
30 LAW.

31 (D) EACH STATE UNIT SHALL PURCHASE ENVIRONMENTALLY PREFERABLE
32 PRODUCTS AND EQUIPMENT IF THE ENVIRONMENTALLY PREFERABLE PRODUCTS
33 AND EQUIPMENT MEET OR EXCEED THE PERFORMANCE STANDARDS OF OTHER
34 PRODUCTS AND EQUIPMENT.

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

37 (F) THE BOARD SHALL:

1 (1) ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS
2 SECTION; AND

3 (2) MAINTAIN AND MAKE GENERALLY AVAILABLE A CURRENT LISTING
4 OF ENVIRONMENTALLY PREFERABLE PRODUCTS AND EQUIPMENT.

5 SECTION 3. AND BE IT FURTHER ENACTED, That:

6 (a) On or before October 1, 2004, the Secretary of General Services shall
7 review, evaluate, and report to the Board of Public Works and, in accordance with §
8 2-1246 of the State Government Article, the General Assembly regarding the actual
9 and potential procurement and use by each State unit of environmentally preferable
10 products and equipment, which is defined under § 14-402(a)(2) of the State Finance
11 and Procurement Article, as enacted under Section 2 of this Act, including:

12 (1) the identification and listing of environmentally preferable products
13 and equipment that could be utilized by each State unit and manufacturers of these
14 products and equipment;

15 (2) the short-term and long-term impacts on the State budget,
16 including, for each State unit:

17 (i) full cost implications of environmental sustainability efforts,
18 such as short- and long-term costs, and purchase, operational, storage, and disposal
19 costs;

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

24 (iii) the availability of alternative funding sources for the purchase
25 of environmentally preferable products and equipment;

26 (3) anticipated environmental benefits, including:

27 (i) conservation benefits realized, such as reduction of greenhouse
28 gas emissions, minimization of solid waste, removal of mercury from agency waste
29 streams, and harvest of fewer trees;

30 (ii) reduction of energy consumption through energy efficiency and
31 conservation;

32 (iii) decreased water consumption through conservation, efficiency,
33 and prevention strategies;

34 (iv) policies and practices currently in use by individual State units
35 to promote sustainable environmental goals that could be utilized in other units of
36 State government; and

1 (v) the feasibility of a pilot program to institute the test-marketing
2 of environmentally preferable products and equipment to State units;

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

8 (5) the nature and extent of education, outreach, and management
9 programs necessary to effect environmentally preferable changes throughout all State
10 units, including:

11 (i) promotion of:

12 1. planning efforts, including the siting, design, construction,
13 and management of State facilities, in an environmentally sound and resource
14 efficient manner;

15 2. changes in employee practices; and

16 3. the initiation and expansion of integrated pest
17 management practices; and

18 (ii) pilot programs, vendor fairs, workshops, and dissemination of
19 resource materials on environmental purchasing; and

20 (6) any legislative or regulatory changes necessary in order for each
21 State unit to maximize its purchase and use of environmentally preferable products
22 and equipment.

23 (b) In the preparation of the review, evaluation, and report required under
24 this section, the Secretary of General Services shall seek pertinent information and
25 recommendations from representatives of the business community regarding the
26 likely impact of State procurement of environmentally preferable products and
27 equipment, including:

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

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

33 (c) Each State unit shall:

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

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

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

6 SECTION 4. AND BE IT FURTHER ENACTED, That the Board of Public
7 Works shall adopt the regulations required under § 14-402(e) of the State Finance
8 and Procurement Article, as enacted under Section 2 of this Act, by December 31,
9 2005.

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

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