
By: **Delegates Cardin, Bobo, Conroy, Heller, Hubbard, Leopold, Mandel, Montgomery, ~~and Morhaim~~ Morhaim, Hurson, Hammen, Benson, Bromwell, Kach, Kullen, Nathan-Pulliam, Oaks, Pendergrass, and V. Turner**

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Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 **Procurement - Percentage Price Preference - Environmentally Preferable**
3 **Products or Equipment**

4 FOR the purpose of providing a certain price preference for environmentally
5 preferable products or equipment under certain circumstances; requiring the
6 Board of Public Works to adopt certain regulations concerning the
7 establishment of a certain percentage price preference; requiring certain units of
8 State government to establish a list of acceptable environmentally preferable
9 products or equipment; requiring each unit of State government to review
10 certain procurement specifications and, to the extent practicable, require the
11 use of a percentage price preference in their purchase of environmentally
12 preferable products or equipment; defining a certain term; repealing certain
13 obsolete language; and generally relating to a percentage price preference for
14 the procurement of environmentally preferable products or equipment.

15 BY repealing and reenacting, with amendments,
16 Article - State Finance and Procurement
17 Section 14-405
18 Annotated Code of Maryland
19 (2001 Replacement Volume and 2004 Supplement)

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

1 **Article - State Finance and Procurement**

2 14-405.

3 (a) (1) In this section the following words have the meanings indicated.

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

8 (I) RECYCLING;

9 (II) RESOURCE CONSERVATION;

10 (III) SOURCE REDUCTION;

11 (IV) USE OF COMPONENTS THAT ARE FREE OF TOXIC OR
12 DEGRADING AGENTS OR CONTAIN THE LEAST AMOUNT OF TOXIC OR DEGRADING
13 AGENTS NECESSARY TO MEET APPLICABLE JOB SPECIFICATIONS;

14 (V) USE OF INNOVATIVE TECHNOLOGY;

15 (VI) USE OF RENEWABLE RESOURCES; AND

16 (VII) WASTE MINIMIZATION.

17 (3) (i) "Recycled materials" means material recovered from or
18 otherwise destined for the waste stream.19 (ii) "Recycled materials" includes post-consumer material,
20 industrial scrap material, compost, processed and pasteurized chicken litter, and
21 obsolete inventories.22 [(3)] (4) "Percentage price preference" means the percent by which a
23 responsive bid from a responsible bidder whose product IS AN ENVIRONMENTALLY
24 PREFERABLE PRODUCT OR EQUIPMENT OR contains recycled materials may exceed
25 the lowest responsive bid submitted by a responsible bidder whose products ARE NOT
26 ENVIRONMENTALLY PREFERABLE PRODUCTS OR EQUIPMENT OR do not contain
27 recycled materials.28 (b) [No later than January 1, 1994, the] THE Board shall adopt regulations
29 that require the Secretary of General Services, the Secretary of Transportation, and
30 the Chancellor of the University System of Maryland to establish a percentage price
31 preference, not to exceed 5%, for the purchase of ENVIRONMENTALLY PREFERABLE
32 PRODUCTS OR EQUIPMENT AND products made from recycled materials.33 (c) A percentage price preference under this section may not be used in
34 conjunction with any other percentage price preference established under this title.

1 (d) (1) To encourage the maximum purchase of ENVIRONMENTALLY
2 PREFERABLE PRODUCTS OR EQUIPMENT AND commodities utilizing recycled
3 materials, the Department of General Services, in consultation with the Department
4 of the Environment, the University of Maryland, the Maryland Environmental
5 Service, the Department of Transportation, the Department of Natural Resources, the
6 Department of Health and Mental Hygiene, and as necessary with representatives of
7 the recycling industry and environmental organizations, shall establish a list of
8 acceptable ENVIRONMENTALLY PREFERABLE PRODUCTS OR EQUIPMENT AND
9 products which contain recycled materials.

10 (2) The list shall be published for use by State agencies at least twice
11 each year.

12 (e) [By January 1, 1991, each] EACH State unit shall review the procurement
13 specifications currently used by the unit and, to the extent practicable, require the
14 use of a percentage price preference in their purchase of ENVIRONMENTALLY
15 PREFERABLE PRODUCTS OR EQUIPMENT AND supplies and commodities containing
16 recycled materials.

17 (f) (1) Except as provided in paragraph (2) of this subsection, this section is
18 broadly applicable to all procurements by the State if the quality of the product is
19 consistent with the requirements of the bid specifications.

20 (2) Only to the extent necessary to prevent the denial of federal moneys
21 or eliminate the inconsistency with federal law, this section does not apply to a
22 procurement by the State if the procurement officer determines that compliance with
23 this section would:

24 (i) cause denial of federal moneys; or

25 (ii) be inconsistent with the requirements of federal law.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2005.