

# HOUSE BILL 1164

P2, M3

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CF SB 693

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By: **Delegate Niemann**

Introduced and read first time: February 17, 2010

Assigned to: Health and Government Operations and Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Green Maryland Act of 2010**

3 FOR the purpose of altering the minimum requirement for the purchase of recycled  
4 paper by the Department of General Services; requiring the Board of Public  
5 Works to adopt regulations that require certain State units, on or before a  
6 certain date, to establish a certain increased price preference for the purchase of  
7 certain products; requiring State units to review annually and revise certain  
8 procurement specifications in accordance with a certain manual and strategy;  
9 requiring the Department to study the use of compost as a fertilizer and report  
10 findings of the study on or before a certain date; making it the goal of the  
11 Department to increase the use of compost in landscaping activities; requiring  
12 the Department to provide assistance to State units in developing strategies  
13 and best practices for implementing environmentally preferable purchasing,  
14 including the development of a best practices manual; requiring bidders and  
15 offerors for a procurement contract with the Department to certify certain  
16 product claims; defining certain terms; providing for the application of certain  
17 provisions of this Act; making technical changes; providing for the construction  
18 of this Act; repealing obsolete provisions; and generally relating to procurement  
19 and use of environmentally beneficial products and practices.

20 BY repealing and reenacting, with amendments,  
21 Article – State Finance and Procurement  
22 Section 14–402 and 14–405  
23 Annotated Code of Maryland  
24 (2009 Replacement Volume)

25 BY adding to  
26 Article – State Finance and Procurement  
27 Section 14–409 and 14–410  
28 Annotated Code of Maryland  
29 (2009 Replacement Volume)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing  
2 Article – Environment  
3 Section 9–1722  
4 Annotated Code of Maryland  
5 (2007 Replacement Volume and 2009 Supplement)

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

8 **Article – State Finance and Procurement**

9 14–402.

10 (a) In this section, “recycled paper” means a paper product at least 80% of  
11 the total weight of which consists of the product of a manufacturing process that:

12 (1) has converted a raw material into a valuable commodity; and

13 (2) includes a total gross content of post consumer waste of at least  
14 80%.

15 (b) To the extent practicable, in procuring paper or paper products under  
16 Title 4, Subtitle 3, Part II of this article, the Secretary of General Services shall buy or  
17 approve for purchase only supplies that are produced from recycled paper.

18 (c) Of the total volume of paper that the Secretary of General Services buys,  
19 at least [~~40%~~] **90%** shall be recycled paper.

20 (d) If recycled paper that meets the definition set forth in subsection (a) of  
21 this section is unavailable, then for purposes of complying with the requirements of  
22 this section, the Department of General Services may purchase recycled paper  
23 products that at a minimum conform to the definitions set forth in the Environmental  
24 Protection Agency guideline for federal procurement of paper and paper products  
25 containing recovered materials (40 C.F.R., Part [~~250~~] **247**).

26 [(e) To encourage the maximum purchase of materials utilizing recycled  
27 materials, the Department of General Services, in consultation with the University of  
28 Maryland, the Maryland Environmental Service, the Department of Transportation,  
29 and the Department of the Environment, shall develop a plan by July 1, 1990 to  
30 increase the State purchase of materials made from recycled solid waste. The  
31 Department of General Services shall submit a report for the implementation of the  
32 plan to the Governor and General Assembly no later than July 1, 1991.

33 (f) Each State unit shall review the procurement specifications currently  
34 used by the unit by January 1, 1990, and, to the extent practicable, require the use of  
35 supplies and materials containing recycled materials.

1 (g) No later than September 1 of each year, each State unit shall report to  
2 the Department of the Environment on the unit's procurement of recycled materials  
3 and on the unit's use of the percentage price preference under § 14-405 of this subtitle  
4 during the preceding fiscal year, including the types and quantities of materials  
5 procured and the percentage of recycled materials in the unit's gross purchases.]

6 14-405.

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

8 (2) "Percentage price preference" means the percent by which a  
9 responsive bid from a responsible bidder whose product contains recycled materials  
10 may exceed the lowest responsive bid submitted by a responsible bidder whose  
11 products do not contain recycled materials.

12 (3) (i) "Recycled materials" means material recovered from or  
13 otherwise destined for the waste stream.

14 (ii) "Recycled materials" includes post-consumer material,  
15 industrial scrap material, compost, processed and pasteurized chicken litter, and  
16 obsolete inventories.

17 (b) No later than January 1, [1994] **2011**, the Board shall adopt regulations  
18 that require the Secretary of General Services, the Secretary of Transportation, and  
19 the Chancellor of the University System of Maryland to establish a percentage price  
20 preference, not to exceed [5%] **8%**, for the purchase of products made from recycled  
21 materials.

22 (c) A percentage price preference under this section may not be used in  
23 conjunction with any other percentage price preference established under this title.

24 (d) (1) To encourage the maximum purchase of commodities utilizing  
25 recycled materials, the Department of General Services, in consultation with the  
26 Department of the Environment, the University of Maryland, the Maryland  
27 Environmental Service, the Department of Transportation, the Department of Natural  
28 Resources, the Department of Health and Mental Hygiene, and as necessary with  
29 representatives of the recycling industry and environmental organizations, shall  
30 establish a list of acceptable products which contain recycled materials.

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

33 (e) [By January 1, 1991, each] **EACH** State unit shall review **ANNUALLY** the  
34 procurement specifications currently used by the unit and, to the extent practicable [,:]

1           **(1)**     require the use of a percentage price preference in their purchase  
2 of supplies and commodities containing recycled materials; **AND**

3           **(2)**     **REVISE THE UNIT'S PROCUREMENT SPECIFICATIONS IN**  
4 **ACCORDANCE WITH THE BEST PRACTICES MANUAL AND STRATEGY TO**  
5 **INCREASE ENVIRONMENTALLY PREFERABLE PURCHASING UNDER § 14-410 OF**  
6 **THIS SUBTITLE.**

7           **(F)**     **ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, EACH STATE UNIT**  
8 **SHALL REPORT TO THE DEPARTMENT OF THE ENVIRONMENT ON THE UNIT'S**  
9 **PROCUREMENT OF RECYCLED MATERIALS AND THE UNIT'S USE OF THE**  
10 **PERCENTAGE PRICE PREFERENCE UNDER SUBSECTION (B) OF THIS SECTION**  
11 **DURING THE PRECEDING FISCAL YEAR, INCLUDING THE TYPES AND QUANTITIES**  
12 **OF MATERIALS PROCURED AND THE PERCENTAGE OF RECYCLED MATERIALS IN**  
13 **THE UNIT'S GROSS PURCHASES.**

14           **[(f)](G)**     **(1)**     Except as provided in paragraph (2) of this subsection, this  
15 section is broadly applicable to all procurements by the State if the quality of the  
16 product is consistent with the requirements of the bid specifications.

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

21                         **(i)**     cause denial of federal moneys; or

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

23     **14-409.**

24           **(A)**     **A STATE OR LOCAL UNIT RESPONSIBLE FOR THE MAINTENANCE OF**  
25 **PUBLIC LANDS IN THE STATE, TO THE MAXIMUM EXTENT PRACTICABLE, SHALL**  
26 **GIVE CONSIDERATION AND PREFERENCE TO THE USE OF COMPOST IN ANY LAND**  
27 **MAINTENANCE ACTIVITY THAT IS TO BE PAID FOR WITH PUBLIC FUNDS.**

28           **(B)**     **(1)**     **THE DEPARTMENT OF GENERAL SERVICES SHALL STUDY THE**  
29 **USE OF COMPOST AS A FERTILIZER ON STATE PROPERTY THAT IS UNDER THE**  
30 **OPERATION OF THE DEPARTMENT OF GENERAL SERVICES TO DEVELOP A**  
31 **BASELINE ESTIMATE OF THE SHARE OF LANDSCAPED AREA FERTILIZED BY**  
32 **COMPOST.**

33           **(2)**     **THE DEPARTMENT OF GENERAL SERVICES SHALL REPORT**  
34 **THE FINDINGS OF THE STUDY REQUIRED UNDER PARAGRAPH (1) OF THIS**  
35 **SUBSECTION TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF**

1 THE STATE GOVERNMENT ARTICLE, ON OR BEFORE DECEMBER 1, 2010, AND  
2 SHALL MAKE THE REPORT AVAILABLE TO THE PUBLIC.

3 (C) IT IS THE GOAL OF THE DEPARTMENT TO:

4 (1) COMPOST, TO THE EXTENT PRACTICABLE, ALL LANDSCAPE  
5 WASTE ON STATE PROPERTY THAT IS UNDER ITS OPERATION FOR USE AS  
6 FERTILIZER IN LANDSCAPING ACTIVITIES; AND

7 (2) INCREASE THE PERCENTAGE OF LANDSCAPED AREA  
8 FERTILIZED BY COMPOST EACH YEAR.

9 14-410.

10 (A) IN THIS SECTION, "ENVIRONMENTALLY PREFERABLE PURCHASING"  
11 MEANS THE PROCUREMENT OR ACQUISITION OF GOODS AND SERVICES THAT  
12 HAVE A LESSER OR REDUCED EFFECT ON HUMAN HEALTH AND THE  
13 ENVIRONMENT WHEN COMPARED WITH COMPETING GOODS OR SERVICES THAT  
14 SERVE THE SAME PURPOSE.

15 (B) THE DEPARTMENT OF GENERAL SERVICES, IN CONSULTATION  
16 WITH THE DEPARTMENT OF THE ENVIRONMENT, SHALL PROVIDE THE STATE  
17 WITH INFORMATION AND ASSISTANCE REGARDING ENVIRONMENTALLY  
18 PREFERABLE PURCHASING, INCLUDING:

19 (1) THE PROMOTION OF ENVIRONMENTALLY PREFERABLE  
20 PURCHASING;

21 (2) THE DEVELOPMENT AND IMPLEMENTATION OF A STRATEGY  
22 TO INCREASE ENVIRONMENTALLY PREFERABLE PURCHASING THAT MAY  
23 INCLUDE THE DEVELOPMENT OF STATEWIDE POLICIES, GUIDELINES,  
24 PROGRAMS, AND REGULATIONS;

25 (3) COORDINATION WITH OTHER STATE OR FEDERAL AGENCIES,  
26 TASK FORCES, WORKGROUPS, REGULATORY EFFORTS, RESEARCH AND DATA  
27 COLLECTION EFFORTS, OR OTHER PROGRAMS AND SERVICES RELATING TO  
28 ENVIRONMENTALLY PREFERABLE PURCHASING; AND

29 (4) THE DEVELOPMENT OF AN ENVIRONMENTALLY PREFERABLE  
30 PURCHASING BEST PRACTICES MANUAL THAT MAY BE ADOPTED FROM OTHER  
31 GOVERNMENTAL OR NONGOVERNMENTAL INSTITUTIONS.

32 (C) IN DEVELOPING THE BEST PRACTICES MANUAL AND STRATEGY TO  
33 INCREASE ENVIRONMENTALLY PREFERABLE PURCHASING UNDER SUBSECTION

1 **(B) OF THIS SECTION, THE DEPARTMENT OF GENERAL SERVICES SHALL**  
2 **CONSIDER:**

3 **(1) GREATER USE AND PROCUREMENT OF METERS USED TO**  
4 **MEASURE ELECTRICITY CONSUMPTION THAT ARE:**

5 **(I) CAPABLE OF MEASURING THE FLOW OF ELECTRICITY IN**  
6 **TWO DIRECTIONS; AND**

7 **(II) COMPATIBLE WITH ADVANCED METERING**  
8 **INFRASTRUCTURE;**

9 **(2) ACHIEVEMENT OF GREATER ENERGY EFFICIENCY THROUGH**  
10 **IMPLEMENTATION OF POLICIES THAT REDUCE OPERATING TIMES FOR HEATING,**  
11 **VENTILATION, AND AIR-CONDITIONING SYSTEMS IN STATE-OWNED OR**  
12 **STATE-OPERATED BUILDINGS;**

13 **(3) INCREASING THE ENERGY EFFICIENCY OF NEW AND EXISTING**  
14 **COMPUTER SERVERS AND DATA STORAGE CENTER OPERATIONS;**

15 **(4) PROCUREMENT OF FOOD AND BEVERAGE CONTAINERS AND**  
16 **UTENSILS THAT ARE MADE OF BIODEGRADABLE MATERIALS OR PLANT-BASED**  
17 **PLASTICS; AND**

18 **(5) THE MOST COST-EFFECTIVE MEANS TO ELIMINATE THE**  
19 **PROCUREMENT OF POLYSTYRENE FOOD AND BEVERAGE CONTAINERS BY ALL**  
20 **UNITS OF STATE GOVERNMENT ON OR BEFORE JULY 1, 2012.**

21 **(D) THE DEPARTMENT OF GENERAL SERVICES SHALL DESIGNATE A**  
22 **SINGLE POINT OF CONTACT FOR STATE AGENCIES, SUPPLIERS, AND OTHER**  
23 **INTERESTED PARTIES TO CONTACT REGARDING ENVIRONMENTALLY**  
24 **PREFERABLE PURCHASING ISSUES.**

25 **(E) THIS SECTION MAY NOT BE CONSTRUED TO:**

26 **(1) LIMIT OR SUPERSEDE RECYCLED CONTENT REQUIREMENTS**  
27 **UNDER ANY OTHER PROVISION OF LAW; OR**

28 **(2) REQUIRE THE ACQUISITION OF GOODS OR SERVICES THAT:**

29 **(I) DO NOT PERFORM ADEQUATELY FOR THE INTENDED**  
30 **USE;**

31 **(II) EXCLUDE ADEQUATE COMPETITION; OR**

