

HOUSE BILL 1164

P2, M3

0lr3325
CF SB 693

By: **Delegate Niemann**

Introduced and read first time: February 17, 2010

Assigned to: Health and Government Operations and Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 30, 2010

CHAPTER _____

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;
12 establishing a Maryland Green Purchasing Committee; providing for the
13 membership of the Committee; requiring the Department Committee to provide
14 assistance to State units in developing strategies and best practices for
15 implementing environmentally preferable purchasing, including the
16 development of a best practices manual; requiring the Committee to submit an
17 annual report of its activities and progress on or before a certain date; requiring
18 bidders and offerors for a procurement contract with the Department to certify
19 certain product claims; requiring the Committee to develop certain guidelines
20 on or before a certain date; defining certain terms; providing for the application
21 of certain provisions of this Act; making technical changes; providing for the
22 construction of this Act; repealing obsolete provisions; and generally relating to
23 procurement and use of environmentally beneficial products and practices.

24 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – State Finance and Procurement
2 Section 14–402 and 14–405
3 Annotated Code of Maryland
4 (2009 Replacement Volume)

5 BY adding to
6 Article – State Finance and Procurement
7 Section 14–409 and 14–410
8 Annotated Code of Maryland
9 (2009 Replacement Volume)

10 BY repealing
11 Article – Environment
12 Section 9–1722
13 Annotated Code of Maryland
14 (2007 Replacement Volume and 2009 Supplement)

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

17 **Article – State Finance and Procurement**

18 14–402.

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

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

22 (2) includes a total gross content of post consumer waste of at least
23 80%.

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

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

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

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

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

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

16 14-405.

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

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

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

24 (ii) "Recycled materials" includes post-consumer material,
25 industrial scrap material, compost, processed and pasteurized chicken litter, and
26 obsolete inventories.

27 (b) No later than January 1, ~~1994~~ ~~2011~~, the Board shall adopt regulations
28 that require the Secretary of General Services, the Secretary of Transportation, and
29 the Chancellor of the University System of Maryland to establish a percentage price
30 preference, not to exceed ~~5%~~ ~~8%~~, for the purchase of products made from recycled
31 materials.

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

34 (d) (1) To encourage the maximum purchase of commodities utilizing
35 recycled materials, the Department of General Services, in consultation with the
36 Department of the Environment, the University of Maryland, the Maryland
37 Environmental Service, the Department of Transportation, the Department of Natural

1 Resources, the Department of Health and Mental Hygiene, and as necessary with
 2 representatives of the recycling industry and environmental organizations, shall
 3 establish a list of acceptable products which contain recycled materials.

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

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

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

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

14 (F) **ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, EACH STATE UNIT**
 15 **SHALL REPORT TO THE DEPARTMENT OF THE ENVIRONMENT ON THE UNIT'S**
 16 **PROCUREMENT OF RECYCLED MATERIALS ~~AND THE UNIT'S USE OF THE~~**
 17 **~~PERCENTAGE PRICE PREFERENCE UNDER SUBSECTION (B) OF THIS SECTION~~**
 18 **DURING THE PRECEDING FISCAL YEAR, INCLUDING THE TYPES AND QUANTITIES**
 19 **OF MATERIALS PROCURED AND THE PERCENTAGE OF RECYCLED MATERIALS IN**
 20 **THE UNIT'S GROSS PURCHASES.**

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

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

28 (i) cause denial of federal moneys; or

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

30 **14-409.**

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

1 **(B) (1) THE DEPARTMENT OF GENERAL SERVICES SHALL STUDY THE**
2 **USE OF COMPOST AS A FERTILIZER ON STATE PROPERTY THAT IS UNDER THE**
3 **OPERATION OF THE DEPARTMENT OF GENERAL SERVICES TO DEVELOP A**
4 **BASELINE ESTIMATE OF THE SHARE OF LANDSCAPED AREA FERTILIZED BY**
5 **COMPOST.**

6 **(2) THE DEPARTMENT OF GENERAL SERVICES SHALL REPORT**
7 **THE FINDINGS OF THE STUDY REQUIRED UNDER PARAGRAPH (1) OF THIS**
8 **SUBSECTION TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF**
9 **THE STATE GOVERNMENT ARTICLE, ON OR BEFORE DECEMBER 1, 2010, AND**
10 **SHALL MAKE THE REPORT AVAILABLE TO THE PUBLIC.**

11 **(C) IT IS THE GOAL OF THE DEPARTMENT TO:**

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

15 **(2) INCREASE THE PERCENTAGE OF LANDSCAPED AREA**
16 **FERTILIZED BY COMPOST EACH YEAR.**

17 **14-410.**

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

20 **(2) “COMMITTEE” MEANS THE MARYLAND GREEN PURCHASING**
21 **COMMITTEE.**

22 **(3) ~~IN THIS SECTION, “ENVIRONMENTALLY ENVIRONMENTALLY~~**
23 **PREFERABLE PURCHASING” MEANS THE PROCUREMENT OR ACQUISITION OF**
24 **GOODS AND SERVICES THAT HAVE A LESSER OR REDUCED EFFECT ON HUMAN**
25 **HEALTH AND THE ENVIRONMENT WHEN COMPARED WITH COMPETING GOODS**
26 **OR SERVICES THAT SERVE THE SAME PURPOSE, BASED ON THE RAW MATERIALS,**
27 **MANUFACTURING, PACKAGING, DISTRIBUTION, USE, REUSE, OPERATION,**
28 **MAINTENANCE, AND DISPOSAL OF THE GOODS OR SERVICES.**

29 **(B) (1) THERE IS A MARYLAND GREEN PURCHASING COMMITTEE.**

30 **(2) THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:**

31 **(I) THE SECRETARY OF GENERAL SERVICES, OR THE**
32 **SECRETARY’S DESIGNEE;**

1 (II) THE SECRETARY OF BUDGET AND MANAGEMENT, OR
2 THE SECRETARY'S DESIGNEE;

3 (III) THE SECRETARY OF NATURAL RESOURCES, OR THE
4 SECRETARY'S DESIGNEE;

5 (IV) THE SECRETARY OF THE ENVIRONMENT, OR THE
6 SECRETARY'S DESIGNEE;

7 (V) THE SECRETARY OF HEALTH AND MENTAL HYGIENE,
8 OR THE SECRETARY'S DESIGNEE;

9 (VI) THE SECRETARY OF BUSINESS AND ECONOMIC
10 DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

11 (VII) THE SECRETARY OF TRANSPORTATION, OR THE
12 SECRETARY'S DESIGNEE;

13 (VIII) THE SECRETARY OF PUBLIC SAFETY AND
14 CORRECTIONAL SERVICES, OR THE SECRETARY'S DESIGNEE; AND

15 (IX) THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF
16 MARYLAND, OR THE CHANCELLOR'S DESIGNEE.

17 (3) THE SECRETARY OF GENERAL SERVICES, OR THE
18 SECRETARY'S DESIGNEE, SHALL SERVE AS THE CHAIR OF THE COMMITTEE.

19 ~~(B) (C) THE DEPARTMENT OF GENERAL SERVICES, IN~~
20 ~~CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT, THE~~
21 COMMITTEE SHALL PROVIDE THE STATE WITH INFORMATION AND ASSISTANCE
22 REGARDING ENVIRONMENTALLY PREFERABLE PURCHASING, INCLUDING:

23 (1) THE PROMOTION OF ENVIRONMENTALLY PREFERABLE
24 PURCHASING;

25 (2) THE DEVELOPMENT AND IMPLEMENTATION OF A STRATEGY
26 TO INCREASE ENVIRONMENTALLY PREFERABLE PURCHASING THAT MAY
27 INCLUDE THE DEVELOPMENT OF STATEWIDE POLICIES, GUIDELINES,
28 PROGRAMS, AND REGULATIONS;

29 (3) COORDINATION WITH OTHER STATE OR FEDERAL AGENCIES,
30 TASK FORCES, WORKGROUPS, REGULATORY EFFORTS, RESEARCH AND DATA
31 COLLECTION EFFORTS, OR OTHER PROGRAMS AND SERVICES RELATING TO
32 ENVIRONMENTALLY PREFERABLE PURCHASING; AND

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

4 ~~(C)~~ (D) IN DEVELOPING THE BEST PRACTICES MANUAL AND
5 STRATEGY TO INCREASE ENVIRONMENTALLY PREFERABLE PURCHASING UNDER
6 SUBSECTION ~~(B)~~ (C) OF THIS SECTION, THE ~~DEPARTMENT OF GENERAL~~
7 ~~SERVICES~~ COMMITTEE SHALL CONSIDER:

8 (1) GREATER USE AND PROCUREMENT OF METERS USED TO
9 MEASURE ELECTRICITY CONSUMPTION THAT ARE:

10 (I) CAPABLE OF MEASURING THE FLOW OF ELECTRICITY IN
11 TWO DIRECTIONS; AND

12 (II) COMPATIBLE WITH ADVANCED METERING
13 INFRASTRUCTURE;

14 (2) ACHIEVEMENT OF GREATER ENERGY EFFICIENCY THROUGH
15 IMPLEMENTATION OF POLICIES THAT REDUCE OPERATING TIMES FOR HEATING,
16 VENTILATION, AND AIR-CONDITIONING SYSTEMS IN STATE-OWNED OR
17 STATE-OPERATED BUILDINGS;

18 (3) INCREASING THE ENERGY EFFICIENCY OF NEW AND EXISTING
19 COMPUTER SERVERS AND DATA STORAGE CENTER OPERATIONS; AND

20 (4) PROCUREMENT OF FOOD AND BEVERAGE CONTAINERS AND
21 UTENSILS THAT ARE MADE OF BIODEGRADABLE MATERIALS OR PLANT-BASED
22 PLASTICS OR RECYCLABLE PRODUCTS THAT MAY CONTAIN POST CONSUMER
23 RECYCLED CONTENTS; ~~AND~~

24 ~~(5) THE MOST COST EFFECTIVE MEANS TO ELIMINATE THE~~
25 ~~PROCUREMENT OF POLYSTYRENE FOOD AND BEVERAGE CONTAINERS BY ALL~~
26 ~~UNITS OF STATE GOVERNMENT ON OR BEFORE JULY 1, 2012.~~

27 ~~(D)~~ (E) THE ~~DEPARTMENT OF GENERAL SERVICES~~ COMMITTEE
28 SHALL DESIGNATE A SINGLE POINT OF CONTACT FOR STATE AGENCIES,
29 SUPPLIERS, AND OTHER INTERESTED PARTIES TO CONTACT REGARDING
30 ENVIRONMENTALLY PREFERABLE PURCHASING ISSUES.

31 (F) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE COMMITTEE SHALL
32 REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE
33 STATE GOVERNMENT ARTICLE, ON THE COMMITTEE'S ACTIVITIES AND THE
34 PROGRESS MADE AS A RESULT OF THE IMPLEMENTATION OF THIS SECTION.

1 ~~(E)~~ (G) THIS SECTION MAY NOT BE CONSTRUED TO:

2 (1) LIMIT OR SUPERSEDE RECYCLED CONTENT REQUIREMENTS
3 UNDER ANY OTHER PROVISION OF LAW; OR

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

5 (I) DO NOT PERFORM ADEQUATELY FOR THE INTENDED
6 USE;

7 (II) EXCLUDE ADEQUATE COMPETITION; OR

8 (III) ARE NOT AVAILABLE AT A REASONABLE PRICE IN A
9 REASONABLE PERIOD OF TIME.

10 ~~(F)~~ (H) A BIDDER OR OFFEROR FOR A PROCUREMENT CONTRACT
11 WITH THE DEPARTMENT OF GENERAL SERVICES SHALL CERTIFY IN WRITING
12 THAT ANY CLAIMS OF ENVIRONMENTAL ATTRIBUTES MADE RELATING TO A
13 PRODUCT OR SERVICE ARE CONSISTENT WITH THE FEDERAL TRADE
14 COMMISSION'S GUIDELINES FOR THE USE OF ENVIRONMENTAL MARKETING
15 TERMS.

16 Article – Environment

17 [9–1722.

18 Any State or local unit responsible for the maintenance of public lands in the
19 State, to the maximum extent practicable, shall give consideration and preference to
20 the use of compost in any land maintenance activity that is to be paid for with public
21 funds.]

22 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before April 1,
23 2011, the Maryland Green Purchasing Committee shall develop green purchasing
24 guidelines to address practices, products, services, and food that reduce negative
25 impacts on human health and the environment. The guidelines shall include
26 consumption changes and a list of contracts that include human health and
27 environmental specifications for at least five prioritized categories of goods or services,
28 as determined by the Committee. The Committee may prioritize categories of goods or
29 services based on financial impacts, impacts on human health and the environment,
30 availability of cost-effective, environmentally preferable alternatives, and the creation
31 of a green economy in Maryland.

32 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
33 effect October 1, 2010.