

Chapter 594

(House Bill 1164)

AN ACT concerning

Green Maryland Act of 2010

FOR the purpose of altering the minimum requirement for the purchase of recycled paper by the Department of General Services; ~~requiring the Board of Public Works to adopt regulations that require certain State units, on or before a certain date, to establish a certain increased price preference for the purchase of certain products;~~ requiring State units to review annually and revise certain procurement specifications in accordance with a certain manual and strategy; requiring the Department to study the use of compost as a fertilizer and report findings of the study on or before a certain date; making it the goal of the Department to increase the use of compost in landscaping activities; establishing a Maryland Green Purchasing Committee; providing for the membership of the Committee; requiring the Department Committee to provide assistance to State units in developing strategies and best practices for implementing environmentally preferable purchasing, including the development of a best practices manual; requiring the Committee to submit an annual report of its activities and progress on or before a certain date; requiring bidders and offerors for a procurement contract with the Department to certify certain product claims; requiring the Committee to develop certain guidelines on or before a certain date; defining certain terms; providing for the application of certain provisions of this Act; making technical changes; providing for the construction of this Act; repealing obsolete provisions; and generally relating to procurement and use of environmentally beneficial products and practices.

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

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

BY repealing
Article – Environment
Section 9–1722

Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – State Finance and Procurement

14–402.

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

- (1) has converted a raw material into a valuable commodity; and
- (2) includes a total gross content of post consumer waste of at least 80%.

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

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

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

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

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

(g) No later than September 1 of each year, each State unit shall report to the Department of the Environment on the unit’s procurement of recycled materials

and on the unit's use of the percentage price preference under § 14-405 of this subtitle during the preceding fiscal year, including the types and quantities of materials procured and the percentage of recycled materials in the unit's gross purchases.]

14-405.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) cause denial of federal moneys; or
- (ii) be inconsistent with the requirements of federal law.

14-409.

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

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

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

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

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

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

14-410.

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

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

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

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

(2) THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

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

(II) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE SECRETARY’S DESIGNEE;

(III) THE SECRETARY OF NATURAL RESOURCES, OR THE SECRETARY’S DESIGNEE;

(IV) THE SECRETARY OF THE ENVIRONMENT, OR THE SECRETARY’S DESIGNEE;

(V) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY’S DESIGNEE;

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

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

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

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

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

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

(1) THE PROMOTION OF ENVIRONMENTALLY PREFERABLE PURCHASING;

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

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

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

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

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

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

(II) COMPATIBLE WITH ADVANCED METERING INFRASTRUCTURE;

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

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

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

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

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

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

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

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

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

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

(II) EXCLUDE ADEQUATE COMPETITION; OR

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

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

Article – Environment

[9-1722.

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

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

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

Approved by the Governor, May 20, 2010.