

HOUSE BILL 264

M3

(PRE-FILED)

11r0528
CF 11r1590

By: **Delegate Charkoudian**

Requested: August 28, 2020

Introduced and read first time: January 13, 2021

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Solid Waste Management – Organics Recycling and Waste Diversion – Food**
3 **Residuals**

4 FOR the purpose of requiring a certain person that generates food residuals to separate the
5 food residuals from other solid waste and ensure that the food residuals are diverted
6 from final disposal in a refuse disposal system in a certain manner under certain
7 circumstances; authorizing a certain person to apply to the Department of the
8 Environment for a certain waiver; authorizing the Department of the Environment
9 to grant a certain waiver under certain circumstances; requiring the Department of
10 the Environment to establish certain procedures; establishing certain penalties for
11 certain violations; requiring certain penalties to be distributed to a special fund for
12 certain purposes; requiring, on or before a certain date and each year thereafter, the
13 Department of the Environment to report to the General Assembly on the
14 implementation of this Act; providing that this Act may not be construed to preempt
15 or prevail over any ordinance, resolution, law, or rule more stringent than this Act;
16 requiring the Department of the Environment to establish certain guidelines,
17 develop certain mapping, develop a certain plan and, on or before a certain date,
18 report to the General Assembly on a certain plan; requiring, on or before a certain
19 date, the Department of the Environment, in conjunction with the Department of
20 General Services and the Department of Natural Resources, to provide a certain
21 report to the General Assembly; requiring the Department of Commerce to report
22 certain recommendations to the General Assembly on or before a certain date;
23 providing for the application of this Act; defining certain terms; and generally
24 relating to organics recycling and waste diversion.

25 BY repealing and reenacting, without amendments,
26 Article – Environment
27 Section 9–201(a) and (e) and 9–1701(a), (b), (d), (n), (o), and (q)
28 Annotated Code of Maryland
29 (2014 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Environment
3 Section 9–1701(i–1) and (r–1) and 9–1724.1
4 Annotated Code of Maryland
5 (2014 Replacement Volume and 2020 Supplement)

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

8 **Article – Environment**

9 9–201.

10 (a) In this subtitle the following words have the meanings indicated.

11 (e) “Refuse disposal system” includes:

12 (1) An incinerator;

13 (2) A transfer station;

14 (3) A landfill system;

15 (4) A landfill;

16 (5) A solid waste processing facility; and

17 (6) Any other solid waste acceptance facility.

18 9–1701.

19 (a) In this subtitle the following words have the meanings indicated.

20 (b) “Anaerobic digestion” means the controlled anaerobic biological decomposition
21 of organic waste material to produce biogas and digestate.

22 (d) “Composting” means the controlled aerobic biological decomposition of organic
23 waste material in accordance with the standards established by the Secretary under this
24 title.

25 **(I–1) “FOOD RESIDUALS” MEANS MATERIAL DERIVED FROM THE**
26 **PROCESSING OR DISCARDING OF FOOD, INCLUDING PRE– AND POST–CONSUMER**
27 **VEGETABLES, FRUITS, GRAINS, DAIRY PRODUCTS, AND MEATS.**

28 (n) (1) “Organics recycling” means any process in which organic materials are
29 collected, separated, or processed and returned to the marketplace in the form of raw

1 materials or products.

2 (2) “Organics recycling” includes anaerobic digestion and composting.

3 (o) “Organics recycling facility” means a facility where organics recycling takes
4 place.

5 (q) “Recycling” means any process in which recyclable materials are collected,
6 separated, or processed and returned to the marketplace in the form of raw materials or
7 products.

8 (R-1) “REFUSE DISPOSAL SYSTEM” HAS THE MEANING STATED IN § 9-201 OF
9 THIS TITLE.

10 9-1724.1.

11 (A) THIS SECTION APPLIES ONLY TO A PERSON THAT:

12 (1) (I) ON OR AFTER JANUARY 1, 2023, GENERATES AT LEAST 2
13 TONS OF FOOD RESIDUALS EACH WEEK; AND

14 (II) ON OR AFTER JANUARY 1, 2024, GENERATES AT LEAST 1
15 TON OF FOOD RESIDUALS EACH WEEK; AND

16 (2) GENERATES THE FOOD RESIDUALS AT A LOCATION THAT IS
17 WITHIN A 30-MILE RADIUS OF AN ORGANICS RECYCLING FACILITY THAT:

18 (I) HAS THE CAPACITY TO ACCEPT AND PROCESS THE FOOD
19 RESIDUALS; AND

20 (II) IS WILLING TO ACCEPT THE FOOD RESIDUALS FOR
21 RECYCLING.

22 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A PERSON
23 THAT GENERATES FOOD RESIDUALS SHALL:

24 (1) SEPARATE THE FOOD RESIDUALS FROM OTHER SOLID WASTE;
25 AND

26 (2) ENSURE THAT THE FOOD RESIDUALS ARE DIVERTED FROM FINAL
27 DISPOSAL IN A REFUSE DISPOSAL SYSTEM BY:

28 (I) REDUCING THE AMOUNT OF FOOD RESIDUALS GENERATED
29 BY THE PERSON;

1 (II) DONATING SERVABLE FOOD;

2 (III) MANAGING THE FOOD RESIDUALS IN AN ORGANICS
3 RECYCLING SYSTEM INSTALLED ON-SITE;

4 (IV) PROVIDING FOR THE COLLECTION AND TRANSPORTATION
5 OF THE FOOD RESIDUALS FOR AGRICULTURAL USE, INCLUDING FOR USE AS ANIMAL
6 FEED;

7 (V) PROVIDING FOR THE COLLECTION AND TRANSPORTATION
8 OF THE FOOD RESIDUALS FOR PROCESSING IN AN ORGANICS RECYCLING FACILITY;
9 OR

10 (VI) ENGAGING IN ANY COMBINATION OF THE WASTE DIVERSION
11 ACTIVITIES LISTED UNDER ITEMS (I) THROUGH (V) OF THIS ITEM.

12 (C) (1) A PERSON THAT GENERATES FOOD RESIDUALS MAY APPLY TO THE
13 DEPARTMENT FOR A WAIVER FROM THE REQUIREMENTS OF SUBSECTION (B) OF
14 THIS SECTION.

15 (2) THE DEPARTMENT MAY GRANT A WAIVER UNDER PARAGRAPH (1)
16 OF THIS SUBSECTION IF THE PERSON DEMONSTRATES, TO THE SATISFACTION OF
17 THE DEPARTMENT, UNDUE HARDSHIP BECAUSE OF THE FOLLOWING:

18 (I) THE COST OF DIVERTING FOOD RESIDUALS FROM A REFUSE
19 DISPOSAL SYSTEM IS NOT REASONABLY COMPETITIVE WITH DISPOSING THE FOOD
20 RESIDUALS AT A REFUSE DISPOSAL SYSTEM; OR

21 (II) OTHER REASONABLE CIRCUMSTANCES.

22 (3) THE DEPARTMENT SHALL ESTABLISH WAIVER APPLICATION
23 PROCEDURES TO CARRY OUT THIS SUBSECTION.

24 (D) ON OR BEFORE DECEMBER 1, 2023, AND EACH DECEMBER 1
25 THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN
26 ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE
27 IMPLEMENTATION OF THIS SECTION, INCLUDING THE IMPACTS ON WASTE
28 DIVERSION IN THE STATE.

29 (E) (1) A PERSON WHO VIOLATES THIS SECTION OR ANY RULE OR
30 REGULATION ADOPTED UNDER THIS SECTION SHALL BE SUBJECT TO A CIVIL
31 PENALTY, TO BE COLLECTED IN A CIVIL ACTION BROUGHT BY THE DEPARTMENT,

1 **OF:**

2 **(I) \$250 FOR THE FIRST VIOLATION;**

3 **(II) \$500 FOR THE SECOND VIOLATION; AND**

4 **(III) \$1000 FOR THE THIRD AND EACH SUBSEQUENT VIOLATION.**

5 **(2) EACH DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION**
6 **UNDER THIS SECTION.**

7 **(3) PENALTIES COLLECTED UNDER THIS SUBSECTION SHALL BE**
8 **DISTRIBUTED TO A SPECIAL FUND, TO BE USED ONLY TO FINANCE INCENTIVES THAT**
9 **ENCOURAGE FOOD WASTE REDUCTION AND COMPOSTING IN THE STATE.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed
11 to preempt or prevail over any local ordinance, resolution, law, or rule more stringent than
12 this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of the
14 Environment shall:

15 (1) establish guidelines to assist businesses with complying with the
16 provisions of this Act, including guidelines for estimating the weight of the food residuals
17 generated by a business;

18 (2) develop mapping and other systems to identify existing composting
19 facilities and the geographic areas within the 30-mile radius of each facility;

20 (3) develop a plan for implementing the provisions of this Act, including a
21 plan for educating large generators of food residuals on:

22 (i) the provisions of this Act; and

23 (ii) the benefits of organics recycling; and

24 (4) on or before July 1, 2022, report to the General Assembly, in accordance
25 with § 2–1257 of the State Government Article, on the Department’s plan for implementing
26 the provisions of this Act.

27 SECTION 4. AND BE IT FURTHER ENACTED, That on or before October 1, 2022,
28 the Department of the Environment, in conjunction with the Department of General
29 Services and the Department of Natural Resources, shall report to the General Assembly,
30 in accordance with § 2–1257 of the State Government Article, on State properties that are
31 suitable for use as organics recycling facilities in a manner that is consistent with
32 programmatic recommendation number 9 in the final report of the Yard Waste, Food

1 Residuals, and Other Organic Materials Diversion and Infrastructure Study Group issued
2 in 2019 as required by Chapters 383 and 384 of the Acts of 2017.

3 SECTION 5. AND BE IT FURTHER ENACTED, That on or before January 1, 2023,
4 the Department of Commerce shall report to the General Assembly, in accordance with §
5 2–1257 of the State Government Article, on recommendations for financial and other
6 incentives to encourage food waste reduction and composting in the State.

7 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2021.