

Chapter 710

(Senate Bill 372)

AN ACT concerning

**Environment – ~~Coal Tar~~ Sealant Products – Prohibitions
(Safer Sealant Act of 2022)**

FOR the purpose of prohibiting, on or after a certain date, a person from supplying, selling, or offering for sale a high-PAH ~~coal tar~~ sealant product for application to a driveway or parking area in the State; prohibiting, on or after a certain date, a person from applying or soliciting the application of a high-PAH ~~coal tar~~ sealant product to a driveway or parking area in the State; ~~prohibiting, on or after a certain date, a person from supplying, selling, offering for sale, or manufacturing a coal tar sealant product for application to a driveway or parking area in the State unless the sealant product is labeled in accordance with standards adopted by the Department of the Environment;~~ prohibiting a county, municipality, or unit of local government from adopting any ordinance, rule, or regulation related to ~~coal tar~~ sealant products that are less stringent than the requirements of this Act; applying certain provisions of law to enforce violations of this Act and making a violation of this Act a civil offense; requiring certain penalties to be paid into the Maryland Clean Water Fund; providing that a person who violates this Act is subject to a certain administrative penalty; altering the use of the Fund to include activities that are conducted by the Department under this Act; and generally relating to ~~coal tar~~ sealant products.

BY repealing and reenacting, without amendments,

Article – Environment

Section 9-320(a) and (c)(7)

Annotated Code of Maryland

(2014 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 9-320(b)(3) and (4) and (c)(6)

Annotated Code of Maryland

(2014 Replacement Volume and 2021 Supplement)

BY adding to

Article – Environment

Section 9-320(b)(5); and 9-2401 through 9-2405 to be under the new subtitle
“Subtitle 24. ~~Coal Tar~~ Sealant Products”

Annotated Code of Maryland

(2014 Replacement Volume and 2021 Supplement)

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

Article – Environment

9–320.

(a) There is a Maryland Clean Water Fund.

(b) The following payments shall be made into the Maryland Clean Water Fund:

(3) Any civil or administrative penalty or any fine imposed by a court under the provisions of Title 4, Subtitle 1 of this article; [and]

(4) Any fees or funds that the Department collects under Subtitle 2, Part III of this title and §§ 9–269 and 9–270 of this title and any civil or administrative penalty or fine imposed by a court under the provisions of Subtitle 2 of this title; **AND**

(5) ANY FEES OR FUNDS THAT THE DEPARTMENT COLLECTS UNDER SUBTITLE 24 OF THIS TITLE AND ANY CIVIL OR ADMINISTRATIVE PENALTY OR FINE IMPOSED BY A COURT UNDER THE PROVISIONS OF SUBTITLE 24 OF THIS TITLE.

(c) The Department shall use the Maryland Clean Water Fund for activities that are related to:

(6) Activities that are:

(i) Conducted by the Department, by a local health official, or by the local health official’s designee under § 9–243(e) of this title; [and]

(ii) Related to identifying, monitoring, or regulating the utilization of sewage sludge, including program development; and

(III) CONDUCTED BY THE DEPARTMENT UNDER SUBTITLE 24 OF THIS TITLE; AND

(7) Providing supplemental inspections and monitoring of sewage sludge utilization sites by:

(i) Contracting with a county on request of that county to provide supplemental inspections and monitoring; and

(ii) Limiting the value of services provided under the contract to no more than 45% of the generator fees for sludge utilized in that county that is generated outside of that county or service area.

SUBTITLE 24. ~~COAL-TAR~~ SEALANT PRODUCTS.

9-2401.

~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(B) (1) "COAL TAR" MEANS A VISCOUS SUBSTANCE THAT IS OBTAINED FROM THE DISTILLATION OF BITUMINOUS COAL.~~

~~(2) "COAL TAR" INCLUDES:~~

~~(I) REFINED COAL TAR;~~

~~(II) HIGH TEMPERATURE COAL TAR;~~

~~(III) COAL TAR PITCH; AND~~

~~(IV) COAL TAR PITCH VOLATILES.~~

~~(C) "COAL TAR SEALANT PRODUCT" MEANS A SEALANT PRODUCT CONTAINING COAL TAR OR COAL TAR PITCH VOLATILES.~~

~~(D) "HIGH PAH COAL TAR, "HIGH-PAH SEALANT PRODUCT" MEANS A SEALANT PRODUCT CONTAINING COAL TAR OR COAL TAR PITCH VOLATILES CONTAINING MORE THAN 0.100% 1.0% POLYCYCLIC AROMATIC HYDROCARBONS BY WEIGHT THAT IS INTENDED FOR APPLICATION ON A SURFACE.~~

~~(E) "LOW PAH COAL TAR SEALANT PRODUCT" MEANS A SEALANT PRODUCT CONTAINING COAL TAR OR COAL TAR PITCH VOLATILES WITH LESS THAN 0.005% POLYCYCLIC AROMATIC HYDROCARBONS BY WEIGHT THAT IS INTENDED FOR APPLICATION ON A SURFACE.~~

9-2402.

(A) (1) EXCEPT AS PROVIDED IN THIS SECTION, THIS SUBTITLE DOES NOT LIMIT THE POWER OF A COUNTY, MUNICIPALITY, OR UNIT OF LOCAL GOVERNMENT TO ADOPT ORDINANCES, RULES, OR REGULATIONS RELATED TO ~~COAL TAR~~ SEALANT PRODUCTS.

~~(B) (2) A COUNTY, MUNICIPALITY, OR UNIT OF LOCAL GOVERNMENT MAY NOT ADOPT ANY ORDINANCE, RULE, OR REGULATION RELATED TO ~~COAL TAR~~ SEALANT PRODUCTS THAT ARE LESS STRINGENT THAN THE REQUIREMENTS OF THIS SUBTITLE.~~

~~(c)~~ **(3) THIS SUBTITLE DOES NOT AFFECT THE AUTHORITY OF A COUNTY, MUNICIPALITY, OR UNIT OF LOCAL GOVERNMENT TO ENACT AND ENFORCE STANDARDS OR REQUIREMENTS RELATED TO ~~COAL-TAR~~ SEALANT PRODUCTS THAT ARE MORE STRINGENT THAN THE REQUIREMENTS OF THIS SUBTITLE.**

(B) THIS SUBTITLE DOES NOT APPLY TO:

- (1) AIRPORTS;**
- (2) FEDERAL FACILITIES; OR**
- (3) MILITARY FACILITIES.**

9-2403.

ON OR AFTER OCTOBER 1, 2023, A PERSON MAY NOT:

(1) SUPPLY, SELL, OR OFFER FOR SALE A HIGH-PAH ~~COAL-TAR~~ SEALANT PRODUCT FOR APPLICATION TO A DRIVEWAY OR PARKING AREA IN THE STATE; OR

(2) APPLY OR SOLICIT THE APPLICATION OF A HIGH-PAH ~~COAL-TAR~~ SEALANT PRODUCT TO A DRIVEWAY OR PARKING AREA IN THE STATE; OR

~~**(3) SUPPLY, SELL, OFFER FOR SALE, OR MANUFACTURE A COAL-TAR SEALANT PRODUCT FOR APPLICATION TO A DRIVEWAY OR PARKING AREA IN THE STATE UNLESS THE COAL-TAR SEALANT PRODUCT IS LABELED IN ACCORDANCE WITH § 9-2404 OF THIS SUBTITLE.**~~

9-2404.

~~**(A) THE DEPARTMENT SHALL DEVELOP LABELING STANDARDS FOR A PERSON SUPPLYING, SELLING, OFFERING FOR SALE, OR MANUFACTURING A COAL-TAR SEALANT PRODUCT FOR APPLICATION TO A DRIVEWAY OR PARKING AREA IN THE STATE, INCLUDING THE PLACEMENT OF THE COMPOSITION OF THE COAL-TAR SEALANT PRODUCT AS A PERCENTAGE OF POLYCYCLIC AROMATIC HYDROCARBONS BY WEIGHT ON THE LABEL.**~~

~~**(B) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ALLOW A COAL-TAR SEALANT MANUFACTURER TO LABEL A PRODUCT CONTAINING LESS THAN 0.005% POLYCYCLIC AROMATIC HYDROCARBONS BY WEIGHT AS A LOW-PAH COAL-TAR SEALANT PRODUCT OR “LOW PAH”.**~~

~~(2)~~ **THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.**

9-2405.

(A) ~~THE~~ EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE PROVISIONS OF §§ 9-334 THROUGH 9-344 OF THIS TITLE APPLY TO ENFORCE VIOLATIONS OF:

- (1) THIS SUBTITLE;**
- (2) ANY REGULATION ADOPTED UNDER THIS SUBTITLE; OR**
- (3) ANY ORDER ISSUED UNDER THIS SUBTITLE.**

(B) ANY PENALTY COLLECTED BY THE DEPARTMENT UNDER THIS SECTION SHALL BE PAID INTO THE MARYLAND CLEAN WATER FUND ESTABLISHED UNDER § 9-320 OF THIS TITLE.

(C) (1) A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO ~~A~~:

(I) A CIVIL PENALTY ~~NOT EXCEEDING~~ UP TO \$2,500 FOR EACH VIOLATION; AND

(II) AN ADMINISTRATIVE PENALTY UP TO \$2,500 FOR EACH VIOLATION, BUT NOT EXCEEDING \$100,000 TOTAL.

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 29, 2022.