

# SENATE BILL 372

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CF HB 133

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By: **Senator Kagan**

Introduced and read first time: January 21, 2022

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

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

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

19 BY repealing and reenacting, without amendments,  
20 Article – Environment  
21 Section 9-320(a) and (c)(7)  
22 Annotated Code of Maryland  
23 (2014 Replacement Volume and 2021 Supplement)

24 BY repealing and reenacting, with amendments,  
25 Article – Environment  
26 Section 9-320(b)(3) and (4) and (c)(6)  
27 Annotated Code of Maryland  
28 (2014 Replacement Volume and 2021 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to  
2 Article – Environment  
3 Section 9–320(b)(5); and 9–2401 through 9–2405 to be under the new subtitle  
4 “Subtitle 24. Coal Tar Sealant Products”  
5 Annotated Code of Maryland  
6 (2014 Replacement Volume and 2021 Supplement)

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

9 **Article – Environment**

10 9–320.

11 (a) There is a Maryland Clean Water Fund.

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

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

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

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

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

23 (6) Activities that are:

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

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

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

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

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

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

6 **SUBTITLE 24. COAL TAR SEALANT PRODUCTS.**

7 **9-2401.**

8 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
9 INDICATED.

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

12 (2) "COAL TAR" INCLUDES:

13 (I) REFINED COAL TAR;

14 (II) HIGH TEMPERATURE COAL TAR;

15 (III) COAL TAR PITCH; AND

16 (IV) COAL TAR PITCH VOLATILES.

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

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

23 (E) "LOW-PAH COAL TAR SEALANT PRODUCT" MEANS A SEALANT  
24 PRODUCT CONTAINING COAL TAR OR COAL TAR PITCH VOLATILES WITH LESS THAN  
25 0.005% POLYCYCLIC AROMATIC HYDROCARBONS BY WEIGHT THAT IS INTENDED  
26 FOR APPLICATION ON A SURFACE.

27 **9-2402.**

28 (A) EXCEPT AS PROVIDED IN THIS SECTION, THIS SUBTITLE DOES NOT LIMIT  
29 THE POWER OF A COUNTY, MUNICIPALITY, OR UNIT OF LOCAL GOVERNMENT TO

1 ADOPT ORDINANCES, RULES, OR REGULATIONS RELATED TO COAL TAR SEALANT  
2 PRODUCTS.

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

7 (C) THIS SUBTITLE DOES NOT AFFECT THE AUTHORITY OF A COUNTY,  
8 MUNICIPALITY, OR UNIT OF LOCAL GOVERNMENT TO ENACT AND ENFORCE  
9 STANDARDS OR REQUIREMENTS RELATED TO COAL TAR SEALANT PRODUCTS THAT  
10 ARE MORE STRINGENT THAN THE REQUIREMENTS OF THIS SUBTITLE.

11 **9-2403.**

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

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

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

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

22 **9-2404.**

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

29 (B) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ALLOW A  
30 COAL TAR SEALANT MANUFACTURER TO LABEL A PRODUCT CONTAINING LESS THAN  
31 0.005% POLYCYCLIC AROMATIC HYDROCARBONS BY WEIGHT AS A LOW-PAH COAL  
32 TAR SEALANT PRODUCT OR "LOW PAH".

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

3 **9-2405.**

4                   **(A) THE PROVISIONS OF §§ 9-334 THROUGH 9-344 OF THIS TITLE APPLY TO**  
5 **ENFORCE VIOLATIONS OF:**

6                   **(1) THIS SUBTITLE;**

7                   **(2) ANY REGULATION ADOPTED UNDER THIS SUBTITLE; OR**

8                   **(3) ANY ORDER ISSUED UNDER THIS SUBTITLE.**

9                   **(B) ANY PENALTY COLLECTED BY THE DEPARTMENT UNDER THIS SECTION**  
10 **SHALL BE PAID INTO THE MARYLAND CLEAN WATER FUND ESTABLISHED UNDER §**  
11 **9-320 OF THIS TITLE.**

12                   **(C) (1) A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO A CIVIL**  
13 **PENALTY NOT EXCEEDING \$2,500 FOR EACH VIOLATION.**

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

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