

HOUSE BILL 261

P2

(3lr1277)

ENROLLED BILL

— Health and Government Operations/Budget and Taxation —

Introduced by Delegates Kerr and Fair, Fair, Bagnall, Bhandari, Cullison, Guzzone, Hill, S. Johnson, Kaiser, R. Lewis, Lopez, Martinez, Pena-Melnyk, Rosenberg, Taveras, White, and Woods

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Public Eligible Projects – Global Warming Potential of Materials Procurement**
3 **of Construction Materials**
4 **(Buy Clean Maryland Act)**

5 FOR the purpose of requiring producers of eligible materials to submit certain declarations
6 to the Department of General Services by a certain date; requiring the Department
7 to assess and ~~to~~ establish a maximum acceptable global warming potential for
8 certain categories of eligible materials used in certain eligible projects; requiring the
9 Department to review the maximum acceptable global warming potential for each
10 category of eligible materials and authorizing the Department to make certain
11 adjustments according to a certain schedule; prohibiting the Department from
12 increasing the maximum acceptable global warming potential for a category of
13 eligible materials; requiring a unit of State government to specify the eligible

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.

Italics indicate opposite chamber/conference committee amendments.



1 materials that will be used in an eligible project in the solicitation for an eligible
 2 project; requiring a successful bidder or offeror of an eligible project to submit certain
 3 information about each eligible material proposed to be used in an eligible project;
 4 prohibiting a contractor from installing any eligible materials on an eligible project
 5 until the contractor submits the required information for the eligible material;
 6 authorizing the Department to waive certain requirements concerning the use of
 7 eligible materials on eligible projects under certain circumstances; providing that the
 8 Department shall strive to achieve a continuous reduction of greenhouse gas
 9 emissions over time; establishing an Environmental Product Declaration Assistance
 10 Fund for a certain purpose; and generally relating to the global warming potential
 11 of materials in ~~public~~ eligible projects.

12 BY adding to

13 Article – State Finance and Procurement

14 Section 4–901 through 4–905 to be under the new subtitle “Subtitle 9. Buy Clean
 15 Maryland Act”

16 Annotated Code of Maryland

17 (2021 Replacement Volume and 2022 Supplement)

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

20 **Article – State Finance and Procurement**

21 **SUBTITLE 9. BUY CLEAN MARYLAND ACT.**

22 **4–901.**

23 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 24 INDICATED.

25 (B) “ELIGIBLE MATERIAL” MEANS ANY CEMENT OR CONCRETE MIXTURE
 26 USED IN THE CONSTRUCTION OF ~~A PUBLIC~~ AN ELIGIBLE PROJECT.

27 (C) (1) “ELIGIBLE PROJECT” ~~MEANS A PUBLIC PROJECT AS DEFINED~~
 28 ~~INCLUDES~~ MEANS A CAPITAL PROJECT DESCRIBED IN § ~~3–602~~ 3–602.1(C) OF THIS
 29 ARTICLE.

30 (2) “ELIGIBLE PROJECT” DOES NOT INCLUDE ANY MAINTENANCE
 31 PROGRAM FOR THE UPKEEP OF ~~A PUBLIC~~ AN ELIGIBLE PROJECT.

32 (D) “GLOBAL WARMING POTENTIAL” MEANS THE DEGREE THAT A GIVEN
 33 MASS OF A CHEMICAL CONTRIBUTES TO GLOBAL WARMING OVER A GIVEN TIME
 34 PERIOD WHEN COMPARED TO THE SAME MASS OF CARBON DIOXIDE.

1 (E) "GREENHOUSE GAS" HAS THE MEANING STATED IN § 2-1202 OF THE
2 ENVIRONMENT ARTICLE.

3 4-902.

4 IN ADMINISTERING THIS SUBTITLE, THE DEPARTMENT SHALL STRIVE TO
5 ACHIEVE A CONTINUOUS REDUCTION OF GREENHOUSE GAS EMISSIONS OVER TIME.

6 4-903.

7 (A) (1) ON OR BEFORE DECEMBER 31, 2024, PRODUCERS OF ELIGIBLE
8 MATERIALS SHALL SUBMIT ENVIRONMENTAL PRODUCT DECLARATIONS TO THE
9 DEPARTMENT.

10 (2) THE DEPARTMENT SHALL ANALYZE ENVIRONMENTAL PRODUCT
11 DECLARATIONS AND ASSESS GLOBAL WARMING POTENTIAL FOR ELIGIBLE
12 MATERIALS USED IN AN ELIGIBLE PROJECT IN ACCORDANCE WITH THIS SECTION.

13 (B) ON OR BEFORE JANUARY 1, ~~2025~~ 2026, THE DEPARTMENT SHALL, *IN*
14 *CONSULTATION WITH THE DEPARTMENT OF TRANSPORTATION*, ESTABLISH A
15 MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR EACH CATEGORY OF
16 ELIGIBLE MATERIALS USED IN AN ELIGIBLE PROJECT IN ACCORDANCE WITH THIS
17 SECTION.

18 ~~(B)~~ (C) THE DEPARTMENT SHALL:

19 (1) BASE THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL
20 ON THE INDUSTRY AVERAGE OF GLOBAL WARMING POTENTIAL EMISSIONS FOR THAT
21 MATERIAL;

22 (2) DETERMINE THE INDUSTRY AVERAGE OF GLOBAL WARMING
23 POTENTIAL EMISSIONS, WHICH MAY INCLUDE TRANSPORTATION-RELATED
24 EMISSIONS, BY CONSULTING NATIONALLY OR INTERNATIONALLY RECOGNIZED
25 DATABASES OF ENVIRONMENTAL PRODUCT DECLARATIONS; AND

26 (3) EXPRESS THE MAXIMUM ACCEPTABLE GLOBAL WARMING
27 POTENTIAL AS A NUMBER THAT STATES THE MAXIMUM ACCEPTABLE GLOBAL
28 WARMING POTENTIAL FOR EACH CATEGORY OF ELIGIBLE MATERIALS, CONSISTENT
29 WITH CRITERIA IN AN ENVIRONMENTAL PRODUCT DECLARATION.

30 ~~(C)~~ (D) THE DEPARTMENT MAY:

1 (1) ESTABLISH ADDITIONAL SUBCATEGORIES WITHIN EACH
2 CATEGORY OF ELIGIBLE MATERIAL WITH DISTINCT MAXIMUM ACCEPTABLE GLOBAL
3 WARMING POTENTIAL LIMITS;

4 (2) ESTABLISH A MAXIMUM ACCEPTABLE GLOBAL WARMING
5 POTENTIAL FOR EACH MATERIAL CATEGORY IN THE AGGREGATE; AND

6 (3) CONSULT WITH ANY OTHER RELEVANT UNIT OF STATE
7 GOVERNMENT WHEN ESTABLISHING A MAXIMUM ACCEPTABLE GLOBAL WARMING
8 POTENTIAL FOR EACH CATEGORY OF ELIGIBLE MATERIALS USED IN AN ELIGIBLE
9 PROJECT.

10 ~~(D)~~ (E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, BY
11 JANUARY 1, ~~2028~~ 2029, AND EVERY 3 YEARS THEREAFTER, THE DEPARTMENT
12 SHALL REVIEW THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR
13 EACH CATEGORY OF ELIGIBLE MATERIALS AND MAY ADJUST THE POTENTIAL FOR
14 ANY CATEGORY TO REFLECT INDUSTRY CONDITIONS.

15 (2) THE DEPARTMENT MAY NOT ADJUST THE GLOBAL WARMING
16 POTENTIAL UPWARD FOR ANY CATEGORY OF ELIGIBLE MATERIAL.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
18 as follows:

19 **Article – State Finance and Procurement**

20 **4–904.**

21 (A) (1) FOR ANY SOLICITATION FOR A CONTRACT FOR AN ELIGIBLE
22 PROJECT, A UNIT OF STATE GOVERNMENT SHALL SPECIFY THE ELIGIBLE
23 MATERIALS THAT WILL BE USED IN THE PROJECT AND THE REASONABLE MINIMUM
24 USAGE THRESHOLDS BELOW WHICH THE REQUIREMENTS OF THIS SECTION DO NOT
25 APPLY.

26 (2) A UNIT OF STATE GOVERNMENT MAY INCLUDE IN A SOLICITATION
27 FOR AN ELIGIBLE PROJECT A GLOBAL WARMING POTENTIAL FOR ANY ELIGIBLE
28 MATERIAL THAT IS LOWER THAN THE MAXIMUM ACCEPTABLE GLOBAL WARMING
29 POTENTIAL FOR THAT MATERIAL AS DETERMINED UNDER § 4–903 OF THIS
30 SUBTITLE.

31 (B) THE DEPARTMENT SHALL REQUIRE A SUCCESSFUL BIDDER OR
32 OFFEROR OF AN ELIGIBLE PROJECT TO SUBMIT, FOR EACH ELIGIBLE MATERIAL
33 PROPOSED TO BE USED IN THE ELIGIBLE PROJECT:

1 **(1) A CURRENT ENVIRONMENTAL PRODUCT DECLARATION, TYPE III,**
2 **AS DEFINED BY THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION**
3 **STANDARD 14025; OR**

4 **(2) A SIMILARLY ROBUST LIFE CYCLE ASSESSMENT METHOD THAT**
5 **INCLUDES UNIFORM STANDARDS IN DATA COLLECTION.**

6 **(C) A CONTRACTOR MAY NOT INSTALL ANY ELIGIBLE MATERIALS ON THE**
7 **ELIGIBLE PROJECT UNTIL THE CONTRACTOR SUBMITS A FACILITY-SPECIFIC**
8 **ENVIRONMENTAL PRODUCT DECLARATION FOR THAT ELIGIBLE MATERIAL AS**
9 **REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.**

10 **(D) IF AN ENVIRONMENTAL PRODUCT DECLARATION IS NOT AVAILABLE FOR**
11 **AN ELIGIBLE MATERIAL, THE CONTRACTOR SHALL NOTIFY THE UNIT AND USE AN**
12 **ALTERNATIVE ELIGIBLE MATERIAL WITH AN ENVIRONMENTAL PRODUCT**
13 **DECLARATION.**

14 **(E) THE DEPARTMENT MAY WAIVE THE REQUIREMENTS OF THIS SECTION**
15 **IF IT DETERMINES THAT REQUIRING THE RELEVANT ELIGIBLE MATERIALS WOULD:**

16 **(1) BE TECHNICALLY INFEASIBLE;**

17 **(2) RESULT IN A SIGNIFICANT INCREASE IN PROJECT COST;**

18 **(3) RESULT IN A SIGNIFICANT DELAY IN PROJECT COMPLETION; OR**

19 **(4) RESULT IN ONLY ONE SOURCE OR MANUFACTURER BEING ABLE**
20 **TO PROVIDE THE NECESSARY MATERIALS.**

21 **4-905.**

22 **(A) ON OR BEFORE DECEMBER 1, 2025, AND EACH YEAR THEREAFTER, THE**
23 **DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT, IN ACCORDANCE WITH § 2-1257**
24 **OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY THAT**
25 **INCLUDES:**

26 **(1) WHAT THE DEPARTMENT HAS LEARNED ABOUT HOW TO IDENTIFY**
27 **AND QUANTIFY EMBODIED CARBON IN BUILDING MATERIALS, INCLUDING LIFE**
28 **CYCLE COSTS; AND**

29 **(2) ANY OBSTACLES THE DEPARTMENT, BIDDERS, OR OFFERORS**
30 **HAVE ENCOUNTERED IN IDENTIFYING AND QUANTIFYING EMBODIED CARBON IN**
31 **BUILDING MATERIALS.**

1 (B) THE REPORT SUBMITTED ON OR BEFORE DECEMBER 1, 2025, SHALL
2 INCLUDE A DESCRIPTION OF THE METHOD THAT THE DEPARTMENT USED TO
3 DEVELOP THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR EACH
4 CATEGORY OF ELIGIBLE MATERIALS.

5 SECTION 3. AND BE IT FURTHER ENACTED, That:

6 (a) (1) There is an Environmental Product Declaration Assistance Fund.

7 (2) The purpose of the Fund is to award grants to producers of eligible
8 materials to support the development, standardization, and transparency of environmental
9 product declarations for construction materials and products.

10 (b) The Department of Commerce shall administer the Fund.

11 (c) The Fund shall consist of money appropriated in the State budget to the Fund.

12 ~~SECTION 4. AND BE IT FURTHER ENACTED, That:~~

13 ~~(a) The Maryland Green Building Council shall examine:~~

14 ~~(1) the use of environmental product declarations to measure the climate~~
15 ~~impact of construction materials produced by the State, including glass, steel, and wood;~~

16 ~~(2) the use of performance incentives to encourage adoption of low-carbon~~
17 ~~materials and methods by manufacturers that provide construction materials for~~
18 ~~State-funded projects;~~

19 ~~(3) the establishment of an expedited product evaluation, testing, and~~
20 ~~approval protocol for low-carbon products;~~

21 ~~(4) the implementation of performance-based specification standards for~~
22 ~~construction materials, including requirements that a structural material achieve specified~~
23 ~~performance-based outcomes from the use of structural material, including outcomes~~
24 ~~related to strength, durability, permeability, or other attributes related to the function of~~
25 ~~building material for applied uses; and~~

26 ~~(5) the use of methods of compliance, including specifications based on~~
27 ~~maximum potential for global warming.~~

28 ~~(b) In examining the items under subsection (a) of this section, the Maryland~~
29 ~~Green Building Council shall consult with:~~

30 ~~(1) any relevant associations that set industry standards for the~~
31 ~~procurement of low-carbon construction products; and~~

1 ~~(2) affected contractors and subcontractors to consider both environmental~~
2 ~~and health and safety impacts.~~

3 ~~(e) On or before September 1, 2024, the Maryland Green Building Council shall~~
4 ~~report its findings and recommendations to the Governor and, in accordance with § 2-1257~~
5 ~~of the State Government Article, the General Assembly.~~

6 SECTION ~~3~~ ~~5~~ 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
7 take effect July 1, ~~2025~~ 2026.

8 SECTION ~~6~~ 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall
9 take effect July 1, 2023. It shall remain effective for a period of 1 year and 6 months and,
10 at the end of December 31, 2024, Section 3 of this Act shall be abrogated and of no further
11 force and effect.

12 SECTION ~~4~~ ~~7~~ 6. AND BE IT FURTHER ENACTED, That, except as provided in
13 ~~Section 3~~ Sections ~~5 and 6~~ 4 and 5 of this Act, this Act shall take effect July 1, 2023.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.