

# SENATE BILL 424

P2  
SB 961/22 – B&T

3lr1279  
CF HB 261

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By: **Senators Elfreth and Feldman**  
Introduced and read first time: February 2, 2023  
Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 23, 2023

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Public Projects – Global Warming Potential of Materials~~  
3 Eligible Projects – Procurement 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  
14 materials that will be used in an eligible project in the solicitation for an eligible  
15 project; requiring a successful bidder or offeror of an eligible project to submit certain  
16 information about each eligible material proposed to be used in an eligible project;  
17 prohibiting a contractor from installing any eligible materials on an eligible project  
18 until the contractor submits the required information for the eligible material;  
19 authorizing the Department to waive certain requirements concerning the use of  
20 eligible materials on eligible projects under certain circumstances; providing that the  
21 Department shall strive to achieve a continuous reduction of greenhouse gas  
22 emissions over time; establishing an Environmental Product Declaration Assistance  
23 Fund for a certain purpose; and generally relating to the global warming potential  
24 of materials in ~~public~~ eligible projects.

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### 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.



1 BY adding to

2 Article – State Finance and Procurement

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

5 Annotated Code of Maryland

6 (2021 Replacement Volume and 2022 Supplement)

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

9 **Article – State Finance and Procurement**

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

11 **4–901.**

12 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
13 INDICATED.

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

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

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

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

23 (E) “GREENHOUSE GAS” HAS THE MEANING STATED IN § 2–1202 OF THE  
24 ENVIRONMENT ARTICLE.

25 **4–902.**

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

28 **4–903.**

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

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

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

9           ~~(B)~~ **(C) THE DEPARTMENT SHALL:**

10           **(1) BASE THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL**  
11 **ON THE INDUSTRY AVERAGE OF GLOBAL WARMING POTENTIAL EMISSIONS FOR THAT**  
12 **MATERIAL;**

13           **(2) DETERMINE THE INDUSTRY AVERAGE OF GLOBAL WARMING**  
14 **POTENTIAL EMISSIONS, WHICH MAY INCLUDE TRANSPORTATION-RELATED**  
15 **EMISSIONS, BY CONSULTING NATIONALLY OR INTERNATIONALLY RECOGNIZED**  
16 **DATABASES OF ENVIRONMENTAL PRODUCT DECLARATIONS; AND**

17           **(3) EXPRESS THE MAXIMUM ACCEPTABLE GLOBAL WARMING**  
18 **POTENTIAL AS A NUMBER THAT STATES THE MAXIMUM ACCEPTABLE GLOBAL**  
19 **WARMING POTENTIAL FOR EACH CATEGORY OF ELIGIBLE MATERIALS, CONSISTENT**  
20 **WITH CRITERIA IN AN ENVIRONMENTAL PRODUCT DECLARATION.**

21           ~~(C)~~ **(D) THE DEPARTMENT MAY:**

22           **(1) ESTABLISH ADDITIONAL SUBCATEGORIES WITHIN EACH**  
23 **CATEGORY OF ELIGIBLE MATERIAL WITH DISTINCT MAXIMUM ACCEPTABLE GLOBAL**  
24 **WARMING POTENTIAL LIMITS;**

25           **(2) ESTABLISH A MAXIMUM ACCEPTABLE GLOBAL WARMING**  
26 **POTENTIAL FOR EACH MATERIAL CATEGORY IN THE AGGREGATE; AND**

27           **(3) CONSULT WITH ANY OTHER RELEVANT UNIT OF STATE**  
28 **GOVERNMENT WHEN ESTABLISHING A MAXIMUM ACCEPTABLE GLOBAL WARMING**  
29 **POTENTIAL FOR EACH CATEGORY OF ELIGIBLE MATERIALS USED IN AN ELIGIBLE**  
30 **PROJECT.**

31           ~~(D)~~ **(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, BY**  
32 **JANUARY 1, ~~2028~~ 2029, AND EVERY 3 YEARS THEREAFTER, THE DEPARTMENT**  
33 **SHALL REVIEW THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR**

1 EACH CATEGORY OF ELIGIBLE MATERIALS AND MAY ADJUST THE POTENTIAL FOR  
2 ANY CATEGORY TO REFLECT INDUSTRY CONDITIONS.

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

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

7 Article – State Finance and Procurement

8 4–904.

9 (A) (1) FOR ANY SOLICITATION FOR A CONTRACT FOR AN ELIGIBLE  
10 PROJECT, A UNIT OF STATE GOVERNMENT SHALL SPECIFY THE ELIGIBLE  
11 MATERIALS THAT WILL BE USED IN THE PROJECT AND THE REASONABLE MINIMUM  
12 USAGE THRESHOLDS BELOW WHICH THE REQUIREMENTS OF THIS SECTION DO NOT  
13 APPLY.

14 (2) A UNIT OF STATE GOVERNMENT MAY INCLUDE IN A SOLICITATION  
15 FOR AN ELIGIBLE PROJECT A GLOBAL WARMING POTENTIAL FOR ANY ELIGIBLE  
16 MATERIAL THAT IS LOWER THAN THE MAXIMUM ACCEPTABLE GLOBAL WARMING  
17 POTENTIAL FOR THAT MATERIAL AS DETERMINED UNDER § 4–903 OF THIS  
18 SUBTITLE.

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

22 (1) A CURRENT ENVIRONMENTAL PRODUCT DECLARATION, TYPE III,  
23 AS DEFINED BY THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION  
24 STANDARD 14025; OR

25 (2) A SIMILARLY ROBUST LIFE CYCLE ASSESSMENT METHOD THAT  
26 INCLUDES UNIFORM STANDARDS IN DATA COLLECTION.

27 (C) A CONTRACTOR MAY NOT INSTALL ANY ELIGIBLE MATERIALS ON THE  
28 ELIGIBLE PROJECT UNTIL THE CONTRACTOR SUBMITS A FACILITY–SPECIFIC  
29 ENVIRONMENTAL PRODUCT DECLARATION FOR THAT ELIGIBLE MATERIAL AS  
30 REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

31 (D) IF AN ENVIRONMENTAL PRODUCT DECLARATION IS NOT AVAILABLE FOR  
32 AN ELIGIBLE MATERIAL, THE CONTRACTOR SHALL NOTIFY THE UNIT AND USE AN

1 ALTERNATIVE ELIGIBLE MATERIAL WITH AN ENVIRONMENTAL PRODUCT  
2 DECLARATION.

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

5 (1) BE TECHNICALLY INFEASIBLE;

6 (2) RESULT IN A SIGNIFICANT INCREASE IN PROJECT COST;

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

8 (4) RESULT IN ONLY ONE SOURCE OR MANUFACTURER BEING ABLE  
9 TO PROVIDE THE NECESSARY MATERIALS.

10 4-905.

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

15 (1) WHAT THE DEPARTMENT HAS LEARNED ABOUT HOW TO IDENTIFY  
16 AND QUANTIFY EMBODIED CARBON IN BUILDING MATERIALS, INCLUDING LIFE  
17 CYCLE COSTS; AND

18 (2) ANY OBSTACLES THE DEPARTMENT, BIDDERS, OR OFFERORS  
19 HAVE ENCOUNTERED IN IDENTIFYING AND QUANTIFYING EMBODIED CARBON IN  
20 BUILDING MATERIALS.

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

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

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

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

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

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

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

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

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.