



The Maryland Department of the Environment
Secretary Serena McIlwain

SB 741

Public Safety – Refrigerants – Limitations on Use

Position: SUPPORT WITH AMENDMENTS
Committee: Education, Energy, and the Environment
Date: March 07, 2023
From: Gabrielle Leach

The Maryland Department of the Environment (MDE or the Department) **SUPPORTS WITH AMENDMENTS** Senate Bill 741. Amongst other changes, SB 741 would add the following provision to the Public Safety Article “ notwithstanding any other law, regulation, or requirement in the State, the use of a refrigerant may not be prohibited or otherwise limited if: (1) the refrigerant is designated as acceptable for use in accordance with 42 U.S.C. 7671; and (2) any appliance containing the refrigerant designated for acceptable use is labeled, installed, serviced, repaired, used, and disposed of in accordance with the safety standards and use conditions under 42 U.S.C. 7671.”

The Maryland Department of the Environment believes that the above language would be legal under current federal and State regulations on hydrofluorocarbons (HFCs). These rules, part of United States Environmental Protection Agency’s (EPA) significant new alternatives policy (SNAP) program, are promulgated under 42 U.S.C. 7671 (sec. 612 of the CAA) and certain provisions of SNAP regulations have been codified by the Department in Maryland regulations under COMAR 26.11.33. The Department adopted certain SNAP regulations because of regulatory uncertainty at the federal level and because HFCs are a category of greenhouse gases (GHG) that have very high global warming potential (GWP). Therefore, reduction of HFCs is very important to meet Maryland’s GHG reduction goals and the Department supports the goals of this legislation to make sure there are no barriers to using lower GWP refrigerants in Maryland, if those refrigerants have been approved by EPA.

However, EPA recently published a new proposed rulemaking. This new EPA rule was proposed Dec. 15, 2022 and was out for public comment through January 30, 2023.¹ It is not yet finalized. Because the above mentioned proposed federal rule, is being promulgated under different federal statutory authority than the SNAP acceptable list referenced in SB 741, the Department is concerned that adoption of SB 741, as proposed, would put MDE in the position of having to comply with both federal rules (which as of now have some conflicting GWP limits for HFC refrigerants) and also a State law that would also have conflicting provisions than what is in the

¹ *Phasedown of Hydrofluorocarbons: Restrictions on the Use of Certain Hydrofluorocarbons Under Subsection (i) the American Innovation and Manufacturing Act of 2020*, 87 Fed. Reg. 76, 738, December 15, 2022.

EPA proposed rule. This would potentially put the Department in the position of having to update our HFC regulations under COMAR 26.11.33 due to the proposed EPA federal law preempted certain HFCs, and then simultaneously being in non-compliance with State law codified under SB 741 if the SNAP list codified under 42 U.S.C. 7671 is not updated accordingly or in a timely manner.

MDE has worked with stakeholders on this legislation and supports SB 741 with Amendments. MDE appreciates the consideration of this amendment.

Proposed Amendment

On page 2, in line 1, after “OTHER” insert “PROVISION OF”; strike beginning with “REGULATION” in line 1 down through “STATE,” in line 2 and substitute “EXCEPT FOR REGULATIONS ISSUED BY THE DEPARTMENT OF THE ENVIRONMENT, NO PROVISION OF THE STATE BUILDING CODE OR OTHER LAW OR REGULATION MAY PROHIBIT OR OTHERWISE LIMIT”;

For the reasons detailed above, MDE urges **FAVORABLE WITH AMENDMENTS** for SB 741.