

HOUSE BILL 1239

M3

2lr2642

By: **Delegates Terrasa, Stein, and Ruth**

Introduced and read first time: February 11, 2022

Assigned to: Environment and Transportation and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Plastic and Glass Products – Postconsumer Recycled Content**
3 **Program**

4 FOR the purpose of prohibiting certain producers of certain plastic and glass products from
5 selling, offering for sale, or distributing the products to any person in the State
6 unless certain conditions are met; requiring certain producers of certain plastic and
7 glass products to, individually or as part of a representative organization, register
8 and pay a certain fee annually to the Department of the Environment; establishing
9 certain minimum postconsumer recycled content percentage requirements for
10 certain plastic carryout bags, plastic beverage containers, rigid plastic containers,
11 plastic trash bags, and glass containers and products; authorizing the Department
12 to grant a waiver under certain circumstances; preempting the authority of a county
13 or municipality to enact a certain law or ordinance; authorizing the Department to
14 participate in a certain multistate clearinghouse; and generally relating to plastic
15 and glass products and postconsumer recycled content.

16 BY repealing and reenacting, without amendments,
17 Article – Environment
18 Section 9–1702(a)
19 Annotated Code of Maryland
20 (2014 Replacement Volume and 2021 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Environment
23 Section 9–1702(d) and 9–1707(f)
24 Annotated Code of Maryland
25 (2014 Replacement Volume and 2021 Supplement)

26 BY adding to
27 Article – Environment

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 9–2401 through 9–2413 to be under the new subtitle “Subtitle 24.
2 Postconsumer Recycled Content Program”
3 Annotated Code of Maryland
4 (2014 Replacement Volume and 2021 Supplement)

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

7 **Article – Environment**

8 9–1702.

9 (a) There is an Office of Recycling created within the Department.

10 (d) The Office shall:

11 (1) Assist the counties in developing an acceptable recycling plan required
12 under § 9–1703 of this subtitle and § 9–505 of this title, including technical assistance to
13 the local governments;

14 (2) Coordinate the efforts of the State to facilitate the implementation of
15 the recycling goals at the county level;

16 (3) Review all recycling plans submitted as part of a county plan as
17 required under § 9–505 of this title and advise the Secretary on the adequacy of the
18 recycling plan;

19 (4) Administer the Statewide Electronics Recycling Program under Part IV
20 of this subtitle; [and]

21 **(5) ADMINISTER THE POSTCONSUMER RECYCLED CONTENT**
22 **PROGRAM UNDER SUBTITLE 24 OF THIS TITLE; AND**

23 ~~[(5)]~~ **(6)** Promote the development of markets for recycled materials and
24 recycled products in the State in accordance with § 9–1702.1 of this subtitle.

25 9–1707.

26 (f) (1) There is a State Recycling Trust Fund.

27 (2) The Fund shall consist of:

28 (i) The newspaper recycling incentive fee;

29 (ii) The telephone directory recycling incentive fee collected under §
30 9–1709 of this subtitle;

1 (iii) The covered electronic device manufacturer registration fee
2 collected under § 9-1728 of this subtitle;

3 (IV) **THE POSTCONSUMER RECYCLED CONTENT REGISTRATION**
4 **FEE COLLECTED UNDER § 9-2403 OF THIS TITLE;**

5 [(iv)] (v) All fines and penalties collected under this subtitle;

6 [(v)] (vi) Money appropriated in the State budget to the Fund; and

7 [(vi)] (vii) Any other money from any other source accepted for the
8 benefit of the Fund.

9 (3) The Secretary shall administer the Fund.

10 (4) The Treasurer shall hold the Fund separately and the Comptroller shall
11 account for the Fund.

12 (5) At the end of each fiscal year, any unspent or unencumbered balance in
13 the Fund that exceeds \$2,000,000 shall revert to the General Fund of the State in
14 accordance with § 7-302 of the State Finance and Procurement Article.

15 (6) In accordance with the State budget, the Fund shall be used only:

16 (i) To provide grants to the counties to be used by the counties to
17 develop and implement local recycling plans;

18 (ii) To provide grants to counties that have addressed methods for
19 the separate collection and recycling of covered electronic devices in accordance with §
20 9-1703(c)(1) of this subtitle;

21 (iii) To provide grants to municipalities to be used by the
22 municipalities to implement local covered electronic device recycling programs; [and]

23 (IV) **TO COVER THE COSTS OF IMPLEMENTING, ADMINISTERING,**
24 **AND ENFORCING THE POSTCONSUMER RECYCLED CONTENT PROGRAM**
25 **ESTABLISHED UNDER SUBTITLE 24 OF THIS TITLE; AND**

26 [(iv)] (v) To carry out the purposes of the land management
27 administration.

28 (7) (i) The Treasurer shall invest the money in the Fund in the same
29 manner as other State money may be invested.

1 (ii) Any investment earnings of the Fund shall be credited to the
2 General Fund of the State.

3 **SUBTITLE 24. POSTCONSUMER RECYCLED CONTENT PROGRAM.**

4 **9-2401.**

5 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (B) "COVERED PRODUCT" MEANS A PRODUCT THAT IS SUBJECT TO THE
8 POSTCONSUMER RECYCLED CONTENT PERCENTAGE REQUIREMENTS ESTABLISHED
9 UNDER THIS SUBTITLE.

10 (C) "POSTCONSUMER RECYCLED CONTENT" MEANS A MATERIAL OR
11 PRODUCT THAT HAS:

12 (1) COMPLETED ITS INTENDED END USE AND PRODUCT LIFE CYCLE
13 FROM HOUSEHOLDS OR BY COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL
14 FACILITIES; AND

15 (2) BEEN SEPARATED FROM THE SOLID WASTE STREAM FOR THE
16 PURPOSES OF COLLECTION AND RECYCLING.

17 (D) (1) "PRODUCER" MEANS A PERSON RESPONSIBLE FOR COMPLYING
18 WITH THE REQUIREMENTS UNDER THIS SUBTITLE.

19 (2) "PRODUCER" DOES NOT INCLUDE:

20 (I) THE STATE, A COUNTY, A MUNICIPALITY, OR ANY OTHER
21 POLITICAL SUBDIVISION OF THE STATE;

22 (II) A CHARITABLE ORGANIZATION THAT IS TAX EXEMPT UNDER
23 § 501(C)(3) OF THE INTERNAL REVENUE CODE;

24 (III) A SOCIAL WELFARE ORGANIZATION THAT IS TAX EXEMPT
25 UNDER § 501(C)(4) OF THE INTERNAL REVENUE CODE; OR

26 (IV) A PRODUCER THAT ANNUALLY SELLS, OFFERS FOR SALE,
27 DISTRIBUTES, OR IMPORTS INTO THE COUNTRY FOR SALE IN THE STATE:

28 1. FEWER THAN 1,000 UNITS OF A SINGLE CATEGORY OF
29 COVERED PRODUCTS; OR

1 **2. A SINGLE CATEGORY OF A COVERED PRODUCT THAT**
2 **IN AGGREGATE GENERATES LESS THAN \$1,000,000 EACH YEAR IN REVENUE IN THE**
3 **STATE.**

4 **(E) (1) "RECYCLED CONTENT" MEANS THE PORTION OF A COVERED**
5 **PRODUCT'S TOTAL WEIGHT THAT IS COMPOSED OF POSTCONSUMER RECYCLED**
6 **MATERIAL, AS DETERMINED BY A MATERIAL BALANCE APPROACH THAT**
7 **CALCULATES TOTAL POSTCONSUMER RECYCLED MATERIAL IN THE PACKAGE AS A**
8 **PERCENTAGE OF THE TOTAL WEIGHT OF THE COVERED PRODUCT.**

9 **(2) "RECYCLED CONTENT" DOES NOT INCLUDE PRE- CONSUMER OR**
10 **POSTINDUSTRIAL SECONDARY WASTE MATERIAL OR MATERIALS AND BY-**
11 **PRODUCTS GENERATED FROM, AND COMMONLY USED WITHIN, AN ORIGINAL**
12 **MANUFACTURING AND FABRICATION PROCESS.**

13 **9-2402.**

14 **(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION**
15 **APPLIES TO A PRODUCER THAT SELLS, OFFERS FOR SALE, OR DISTRIBUTES A**
16 **COVERED PRODUCT IN THE STATE.**

17 **(2) (I) IF THE COVERED PRODUCT IS SOLD UNDER THE**
18 **PRODUCER'S OWN BRAND OR LACKS IDENTIFICATION OF A BRAND, THE PRODUCER**
19 **IS THE PERSON WHO MANUFACTURES THE COVERED PRODUCT.**

20 **(II) IF THE COVERED PRODUCT IS MANUFACTURED BY A**
21 **PERSON OTHER THAN THE BRAND OWNER, THE PRODUCER IS THE PERSON WHO IS**
22 **THE LICENSEE OF A BRAND OR TRADEMARK UNDER WHICH A COVERED PRODUCT IS**
23 **SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN THE STATE, WHETHER OR NOT THE**
24 **TRADEMARK IS REGISTERED IN THE STATE, UNLESS THE MANUFACTURER OR**
25 **BRAND OWNER OF THE COVERED PRODUCT HAS AGREED TO ACCEPT**
26 **RESPONSIBILITY FOR COMPLYING WITH THE REQUIREMENTS UNDER THIS**
27 **SUBTITLE.**

28 **(III) IF THERE IS NO PERSON DESCRIBED IN THIS PARAGRAPH**
29 **OVER WHOM THE STATE CAN CONSTITUTIONALLY EXERCISE JURISDICTION, THE**
30 **PRODUCER IS THE PERSON WHO IMPORTS OR DISTRIBUTES THE COVERED PRODUCT**
31 **IN THE STATE.**

32 **(B) A PRODUCER MAY NOT SELL, OFFER FOR SALE, OR DISTRIBUTE A**
33 **COVERED PRODUCT TO ANY PERSON IN THE STATE UNLESS:**

1 **(1) THE PRODUCT MEETS THE MINIMUM POSTCONSUMER RECYCLED**
2 **CONTENT PERCENTAGE REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE; AND**

3 **(2) THE PRODUCER HAS, INDIVIDUALLY OR AS PART OF A**
4 **REPRESENTATIVE ORGANIZATION, REGISTERED WITH AND SUBMITTED A**
5 **REGISTRATION FEE TO THE DEPARTMENT IN ACCORDANCE WITH § 9-2403 OF THIS**
6 **SUBTITLE.**

7 **9-2403.**

8 **(A) ON OR BEFORE MARCH 1 EACH YEAR, BEGINNING IN 2024, A PRODUCER**
9 **SHALL, INDIVIDUALLY OR AS PART OF A REPRESENTATIVE ORGANIZATION,**
10 **REGISTER WITH THE DEPARTMENT AND PAY AN ANNUAL REGISTRATION FEE OF**
11 **\$1,000.**

12 **(B) THE REGISTRATION SHALL INCLUDE INFORMATION REGARDING:**

13 **(1) EACH PRODUCER INCLUDED UNDER THE REGISTRATION;**

14 **(2) EACH BRAND OF A COVERED PRODUCT INCLUDED UNDER THE**
15 **REGISTRATION;**

16 **(3) THE TOTAL NUMBER OF COVERED PRODUCTS SOLD IN THE STATE**
17 **IN THE IMMEDIATELY PRECEDING CALENDAR YEAR, INCLUDING THE TOTAL**
18 **NUMBER BY EACH CATEGORY OF A COVERED PRODUCT;**

19 **(4) THE AVERAGE PERCENTAGE OF POSTCONSUMER RECYCLED**
20 **CONTENT FOR EACH CATEGORY OF A COVERED PRODUCT SOLD IN THE STATE IN THE**
21 **IMMEDIATELY PRECEDING CALENDAR YEAR;**

22 **(5) PROOF OF THIRD-PARTY CERTIFICATION IN ACCORDANCE WITH**
23 **SUBSECTION (C) OF THIS SECTION; AND**

24 **(6) ANY ADDITIONAL INFORMATION REQUIRED BY THE DEPARTMENT**
25 **IN REGULATION.**

26 **(C) ON OR BEFORE MARCH 1 EACH YEAR, BEGINNING IN 2026, A PRODUCER**
27 **SHALL INCLUDE PROOF OF THIRD-PARTY CERTIFICATION OF THE POSTCONSUMER**
28 **RECYCLED CONTENT OF EACH COVERED PRODUCT INCLUDED IN THE**
29 **REGISTRATION IN A MANNER REQUIRED BY THE DEPARTMENT.**

30 **(D) ANY SALES DATA SUBMITTED TO THE DEPARTMENT TO COMPLY WITH**
31 **THE REQUIREMENTS OF THIS SECTION SHALL BE TREATED AS CONFIDENTIAL AND**

1 PROPRIETARY, AND MAY NOT BE DISCLOSED EXCEPT AS OTHERWISE REQUIRED BY
2 LAW.

3 9-2404.

4 (A) (1) THIS SECTION APPLIES TO PLASTIC CARRYOUT BAGS MADE FROM
5 FILM PLASTIC OF ANY THICKNESS THAT ARE PROVIDED OR MADE AVAILABLE BY A
6 RETAIL ESTABLISHMENT TO A CUSTOMER AT THE POINT OF SALE FOR THE PURPOSE
7 OF TRANSPORTING GROCERIES OR RETAIL GOODS.

8 (2) THIS SECTION DOES NOT APPLY TO PLASTIC CARRYOUT BAGS
9 USED TO:

10 (I) CONTAIN OR WRAP MEAT, SEAFOOD, LOOSE PRODUCE, OR
11 OTHER UNWRAPPED FOOD ITEMS;

12 (II) CONTAIN NEWSPAPER; OR

13 (III) CONTAIN GARMENTS OR LAUNDRY.

14 (B) THE MINIMUM POSTCONSUMER RECYCLED CONTENT PERCENTAGE
15 REQUIREMENT FOR PLASTIC CARRYOUT BAGS IS:

16 (1) BETWEEN JANUARY 1, 2025, AND DECEMBER 31, 2027,
17 INCLUSIVE, 20%; AND

18 (2) ON AND AFTER JANUARY 1, 2028, 40%.

19 9-2405.

20 (A) (1) THIS SECTION APPLIES TO BEVERAGE CONTAINERS THAT ARE
21 MADE FROM PLASTIC AND INTENDED TO CONTAIN BEVERAGES UP TO 2 GALLONS IN
22 CAPACITY, INCLUDING AN INDIVIDUAL, SEALABLE, SEPARATE BOTTLE, CAN, JAR,
23 CARTON, OR OTHER BEVERAGE CONTAINER.

24 (2) THIS SECTION DOES NOT APPLY TO:

25 (I) REFILLABLE BEVERAGE CONTAINERS, INCLUDING
26 CONTAINERS THAT ARE SUFFICIENTLY DURABLE FOR MULTIPLE ROTATIONS OF
27 THEIR ORIGINAL PURPOSE OR A SIMILAR PURPOSE AND ARE INTENDED TO
28 FUNCTION IN A SYSTEM OF REUSE;

1 (II) LINERS, BLADDERS, CAPS, CORKS, CLOSURES, LABELS, AND
2 OTHER ITEMS ADDED TO THE BOTTLE OR CONTAINER BUT THAT ARE SEPARATE
3 FROM THE STRUCTURE OF THE BOTTLE OR CONTAINER;

4 (III) CONTAINERS CERTIFIED BY THE BIODEGRADABLE
5 PRODUCTS INSTITUTE AS COMPOSTABLE; AND

6 (IV) CONTAINERS USED FOR INFANT FORMULA, MEDICAL
7 BEVERAGES, OR FORTIFIED ORAL NUTRITIONAL SUPPLEMENTS.

8 (B) THE MINIMUM POSTCONSUMER RECYCLED CONTENT PERCENTAGE
9 REQUIREMENT FOR PLASTIC BEVERAGE CONTAINERS IS:

10 (1) BETWEEN JANUARY 1, 2026, AND DECEMBER 31, 2029,
11 INCLUSIVE, 15%;

12 (2) BETWEEN JANUARY 1, 2030, AND DECEMBER 31, 2034,
13 INCLUSIVE, 25%; AND

14 (3) ON AND AFTER JANUARY 1, 2035, 40%.

15 9-2406.

16 (A) (1) THIS SECTION APPLIES TO RIGID PLASTIC CONTAINERS OR OTHER
17 NONDURABLE CONTAINERS THAT ARE MADE FROM PLASTIC AND ARE USED FOR
18 FOOD, BEVERAGES, HOUSEHOLD CLEANING PRODUCTS, OR PERSONAL CARE
19 PRODUCTS.

20 (2) THIS SECTION DOES NOT APPLY TO:

21 (i) REFILLABLE HOUSEHOLD CLEANING AND PERSONAL CARE
22 PRODUCT CONTAINERS, INCLUDING CONTAINERS THAT ARE SUFFICIENTLY
23 DURABLE FOR MULTIPLE ROTATIONS OF THEIR ORIGINAL PURPOSE OR A SIMILAR
24 PURPOSE AND ARE INTENDED TO FUNCTION IN A SYSTEM OF REUSE; AND

25 (ii) RIGID PLASTIC CONTAINERS OR PLASTIC BOTTLES THAT
26 ARE MEDICAL DEVICES OR THAT ARE USED FOR:

27 1. MEDICAL PRODUCTS THAT ARE REQUIRED TO BE
28 STERILE;

29 2. NONPRESCRIPTION OR PRESCRIPTION DRUGS; OR

1 **(A) (1) THIS SECTION APPLIES TO GLASS FOOD CONTAINERS, GLASS**
2 **BEVERAGE CONTAINERS, FIBERGLASS BUILDING INSULATION, AND OTHER GLASS**
3 **PRODUCTS IDENTIFIED BY THE DEPARTMENT IN REGULATION.**

4 **(2) THIS SECTION DOES NOT APPLY TO:**

5 **(I) GLASS CONTAINERS USED FOR PACKAGING OR**
6 **DISTRIBUTING PRESCRIPTION AND NONPRESCRIPTION DRUGS;**

7 **(II) GLASS CONTAINERS USED FOR PACKAGING TOXIC OR**
8 **HAZARDOUS PRODUCTS REGULATED UNDER THE FEDERAL INSECTICIDE,**
9 **FUNGICIDE, AND RODENTICIDE ACT;**

10 **(III) GLASS PACKAGING MANUFACTURED FOR USE IN THE**
11 **SHIPMENT OF HAZARDOUS MATERIALS; AND**

12 **(IV) EMPTY GLASS CONTAINERS DESIGNED FOR THE PURPOSE**
13 **OF NONCOMMERCIAL PERSONAL USE.**

14 **(B) THE MINIMUM POSTCONSUMER RECYCLED CONTENT PERCENTAGE**
15 **REQUIREMENT FOR GLASS CONTAINERS AND PRODUCTS IS:**

16 **(1) BETWEEN JANUARY 1, 2025, AND DECEMBER 31, 2027,**
17 **INCLUSIVE, 35%;**

18 **(2) BETWEEN JANUARY 1, 2028, AND DECEMBER 31, 2032,**
19 **INCLUSIVE, 40%; AND**

20 **(3) ON AND AFTER JANUARY 1, 2033, 50%.**

21 **9-2409.**

22 **THE DEPARTMENT MAY GRANT A WAIVER FROM THE REQUIREMENTS UNDER**
23 **THIS SUBTITLE TO A PRODUCER IF THE DEPARTMENT DETERMINES THAT**
24 **ACHIEVING COMPLIANCE UNDER THIS SUBTITLE WOULD PRESENT AN UNDUE**
25 **HARDSHIP OR A PRACTICAL DIFFICULTY NOT GENERALLY APPLICABLE TO OTHER**
26 **PRODUCERS IN SIMILAR CIRCUMSTANCES.**

27 **9-2410.**

28 **(A) ONLY THE STATE MAY ENACT A LAW OR TAKE ANY OTHER ACTION TO**
29 **REGULATE THE POSTCONSUMER RECYCLED CONTENT OF COVERED PRODUCTS.**

1 **(B) SUBSECTION (A) OF THIS SECTION PREEMPTS THE AUTHORITY OF A**
2 **COUNTY OR MUNICIPALITY TO ENACT A LAW OR AN ORDINANCE TO REGULATE THE**
3 **POSTCONSUMER RECYCLED CONTENT OF COVERED PRODUCTS.**

4 **9-2411.**

5 **THE DEPARTMENT MAY PARTICIPATE IN THE ESTABLISHMENT AND**
6 **IMPLEMENTATION OF A MULTISTATE CLEARINGHOUSE TO ASSIST IN CARRYING OUT**
7 **THE REQUIREMENTS OF THIS SUBTITLE, INCLUDING TO:**

8 **(1) HELP COORDINATE THE REVIEW OF REGISTRATIONS, WAIVER**
9 **REQUESTS, AND CERTIFICATIONS; AND**

10 **(2) IMPLEMENT EDUCATION AND OUTREACH ACTIVITIES.**

11 **9-2412.**

12 **THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.**

13 **9-2413.**

14 **THE PROVISIONS OF §§ 9-334 THROUGH 9-342 OF THIS TITLE SHALL BE USED**
15 **AND SHALL APPLY TO ENFORCE VIOLATIONS OF THIS SUBTITLE.**

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