

HOUSE BILL 492

P2, M3, F2

9lr1680

By: **Delegates Gilchrist, Carr, Charkoudian, Cullison, Fraser–Hidalgo, Jalisi, Kelly, R. Lewis, Love, Moon, Sample–Hughes, Stewart, and K. Young**

Introduced and read first time: February 1, 2019

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Carbon–Intensive Foods**

3 FOR the purpose of requiring the Maryland Green Purchasing Committee to publish a list
4 of carbon–intensive foods, in consultation with the Department of the Environment
5 and the Department of General Services, and to establish best practices for units to
6 reduce the volume of carbon–intensive foods purchased to the maximum extent
7 practicable as a percentage of gross food purchases; requiring each unit to give
8 consideration and preference to certain foods; establishing a certain goal of the
9 Department of General Services; requiring each unit to report certain information to
10 the Department of General Services on or before a certain date each year; applying
11 certain provisions of this Act to the University System of Maryland; defining a
12 certain term; requiring the Maryland Green Purchasing Council to take certain
13 actions on or before certain dates; providing that a certain catchline is not law and
14 may not be considered to have been enacted as part of this Act; and generally relating
15 to procurement of foods.

16 BY repealing and reenacting, without amendments,
17 Article – State Finance and Procurement
18 Section 11–203(e)(1), (2), and (7)
19 Annotated Code of Maryland
20 (2015 Replacement Volume and 2018 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – State Finance and Procurement
23 Section 11–203(e)(5)
24 Annotated Code of Maryland
25 (2015 Replacement Volume and 2018 Supplement)

26 BY adding to
27 Article – State Finance and Procurement

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 14–409.1
 2 Annotated Code of Maryland
 3 (2015 Replacement Volume and 2018 Supplement)

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

6 **Article – State Finance and Procurement**

7 11–203.

8 (e) (1) In this subsection, “University” means the University System of
 9 Maryland, Morgan State University, or St. Mary’s College of Maryland.

10 (2) Except as otherwise provided in this subsection, this Division II does
 11 not apply to the University System of Maryland, Morgan State University, or St. Mary’s
 12 College of Maryland.

13 (5) (i) Except as provided in paragraph (7) of this subsection, the
 14 following provisions of Division II of this article apply to a University:

- 15 1. § 11–205 of this subtitle (“Collusion”);
- 16 2. § 11–205.1 of this subtitle (“Falsification, concealment,
 17 etc., of material facts”);
- 18 3. § 13–219 of this article (“Required clauses –
 19 Nondiscrimination clause”);
- 20 4. § 13–225 of this article (“Retainage”);
- 21 5. Title 14, Subtitle 3 of this article (“Minority Business
 22 Participation”);
- 23 6. **§ 14–409.1 OF THIS ARTICLE (“CARBON–INTENSIVE
 24 FOODS”);**
- 25 [6.] 7. Title 15, Subtitle 1 of this article (“Procurement Contract
 26 Administration”);
- 27 [7.] 8. § 15–226 of this article (“Policy established; timing of
 28 payments; notice upon nonpayment; disputes; appeals”); and
- 29 [8.] 9. Title 16 of this article (“Suspension and Debarment of
 30 Contractors”).

31 (ii) If a procurement violates the provisions of this subsection or

1 policies adopted in accordance with this subsection, the procurement contract is void or
2 voidable in accordance with the provisions of § 11–204 of this subtitle.

3 (7) Paragraphs (3), (4), and (5) of this subsection do not apply to:

4 (i) procurement by a University from:

- 5 1. another unit;
- 6 2. a political subdivision of the State;
- 7 3. an agency of a political subdivision of the State;
- 8 4. a government, including the government of another state,
9 of the United States, or of another country;
- 10 5. an agency or political subdivision of a government; or
- 11 6. a bistate, multistate, bicounty, or multicounty
12 governmental agency;

13 (ii) procurement by a University in support of enterprise activities
14 for the purpose of:

- 15 1. direct resale;
- 16 2. remanufacture and subsequent resale; or
- 17 3. procurement by the University for overseas programs; or

18 (iii) procurement by the University System of Maryland for:

- 19 1. services of managers to invest, in accordance with the
20 management and investment policies adopted by the Board of Regents of the University
21 System of Maryland, gift and endowment assets received by the University System of
22 Maryland in accordance with § 12–104(e) of the Education Article; or
- 23 2. expenditures to manage, maintain, and enhance, in
24 accordance with the management and investment policies adopted by the Board of Regents
25 of the University System of Maryland, the value of gift and endowment assets received by
26 the University System of Maryland in accordance with § 12–104(e) of the Education Article.

27 **14–409.1. CARBON–INTENSIVE FOODS.**

28 (A) IN THIS SECTION, “CARBON–INTENSIVE FOODS” MEANS FOOD
29 PRODUCTS THAT EMIT A HIGH LEVEL OF GREENHOUSE GASES THROUGHOUT THE

1 LIFE CYCLE OF THE PRODUCT, RELATIVE TO OTHER FOODS.

2 (B) TO TRACK THE GREENHOUSE GAS EMISSIONS ASSOCIATED WITH FOOD
3 PURCHASES MADE BY STATE AGENCIES, THE MARYLAND GREEN PURCHASING
4 COMMITTEE ESTABLISHED UNDER § 14-410 OF THIS SUBTITLE SHALL:

5 (1) IN CONSULTATION WITH THE DEPARTMENT OF THE
6 ENVIRONMENT AND THE DEPARTMENT OF GENERAL SERVICES, PUBLISH A LIST OF
7 CARBON-INTENSIVE FOODS; AND

8 (2) ESTABLISH BEST PRACTICES FOR UNITS TO REDUCE, TO THE
9 MAXIMUM EXTENT PRACTICABLE, THE VOLUME OF CARBON-INTENSIVE FOODS
10 PURCHASED AS A PERCENTAGE OF GROSS FOOD PURCHASES.

11 (C) EACH UNIT, TO THE MAXIMUM EXTENT PRACTICABLE, SHALL GIVE
12 CONSIDERATION AND PREFERENCE TO FOODS THAT ARE NOT ON THE LIST OF
13 CARBON-INTENSIVE FOODS AND THAT MEET THE NUTRITIONAL NEEDS OF THE
14 POPULATION SERVED.

15 (D) IT IS THE GOAL OF THE DEPARTMENT OF GENERAL SERVICES TO
16 REDUCE, TO THE EXTENT PRACTICABLE, THE VOLUME OF CARBON-INTENSIVE
17 FOODS PURCHASED BY STATE PROCUREMENT UNITS.

18 (E) ON OR BEFORE SEPTEMBER 1, 2020, AND EACH SEPTEMBER 1
19 THEREAFTER, EACH UNIT SHALL REPORT TO THE DEPARTMENT OF GENERAL
20 SERVICES ON THE UNIT'S PROCUREMENT OF CARBON-INTENSIVE FOODS AS A
21 PERCENTAGE OF THE UNIT'S GROSS VOLUME OF FOOD PURCHASES DURING THE
22 IMMEDIATELY PRECEDING FISCAL YEAR, INCLUDING THE TYPES AND QUANTITIES
23 OF EACH CARBON-INTENSIVE FOOD PURCHASED.

24 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Green
25 Purchasing Committee established under § 14-410 of the State Finance and Procurement
26 Article shall:

27 (1) publish a list of carbon-intensive foods as required under §
28 14-409.1(b)(1) of the State Finance and Procurement Article, as enacted by Section 1 of this
29 Act, on or before January 1, 2020; and

30 (2) establish the best practices required under § 14-409.1(b)(2) of the State
31 Finance and Procurement Article, as enacted by Section 1 of this Act, on or before
32 September 1, 2020.

33 SECTION 3. AND BE IT FURTHER ENACTED, That the catchline contained in
34 this Act is not law and may not be considered to have been enacted as part of this Act.

1 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
2 1, 2019.