

HOUSE BILL 77

M3

11r0350

(PRE-FILED)

By: **Delegate Stewart**

Requested: September 1, 2020

Introduced and read first time: January 13, 2021

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 12, 2021

CHAPTER _____

1 AN ACT concerning

2 **Environment – ~~Application of Coal Tar Pavement Products~~ Driveway Sealers –**
3 **Prohibitions**
4 **(Safer Sealant Act of 2021)**

5 FOR the purpose of prohibiting, on or after a certain date, a person from ~~applying certain~~
6 ~~coal tar pavement products~~ supplying, selling, offering for sale, or manufacturing a
7 high-PAH driveway sealer for use in the State; prohibiting, on or after a certain
8 date, a person from applying or soliciting the application of a high-PAH driveway
9 sealer to pavement or a similar surface in the State; establishing certain penalties
10 ~~for certain violations; providing for the application of this Act~~ prohibiting, on or after
11 a certain date, a person from supplying, selling, offering for sale, or manufacturing
12 a driveway sealer for use in the State unless the driveway sealer has a certain label;
13 requiring the Department of the Environment to develop labeling standards for a
14 person supplying, selling, offering for sale, or manufacturing a driveway sealer for
15 use in the State; requiring the Department to adopt regulations to allow a sealant
16 manufacturer to label a certain product in a certain manner; authorizing the
17 Department to adopt regulations to implement this Act; applying certain provisions
18 of law to enforce violations of this Act; requiring certain penalties to be paid into the
19 Maryland Clean Water Fund; altering the contents and use of the Fund; defining
20 certain terms; and generally relating to the ~~application of coal tar pavement products~~
21 sale and use of driveway sealers in the State.

22 BY repealing and reenacting, without amendments,

23 Article – Environment

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 Section 9–320(a) and (c)(7)
 2 Annotated Code of Maryland
 3 (2014 Replacement Volume and 2020 Supplement)

4 BY repealing and reenacting, with amendments,
 5 Article – Environment
 6 Section 9–320(b)(3) and (4) and (c)(6)
 7 Annotated Code of Maryland
 8 (2014 Replacement Volume and 2020 Supplement)

9 BY adding to
 10 Article – Environment
 11 Section 9–320(b)(5); and 9–2301 through 9–2304 to be under the new subtitle
 12 “Subtitle 23. ~~Coal Tar Pavement Products~~ Driveway Sealers”
 13 Annotated Code of Maryland
 14 (2014 Replacement Volume and 2020 Supplement)

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

17 **Article – Environment**

18 9–320.

19 (a) There is a Maryland Clean Water Fund.

20 (b) The following payments shall be made into the Maryland Clean Water Fund:

21 (3) Any civil or administrative penalty or any fine imposed by a court under
 22 the provisions of Title 4, Subtitle 1 of this article; [and]

23 (4) Any fees or funds that the Department collects under Subtitle 2, Part
 24 III of this title and §§ 9–269 and 9–270 of this title and any civil or administrative penalty
 25 or fine imposed by a court under the provisions of Subtitle 2 of this title; AND

26 **(5) ANY FEES OR FUNDS THAT THE DEPARTMENT COLLECTS UNDER**
 27 **SUBTITLE 23 OF THIS TITLE AND ANY CIVIL OR ADMINISTRATIVE PENALTY OR FINE**
 28 **IMPOSED BY A COURT UNDER THE PROVISIONS OF SUBTITLE 23 OF THIS TITLE.**

29 (c) The Department shall use the Maryland Clean Water Fund for activities that
 30 are related to:

31 (6) Activities that are:

32 (i) Conducted by the Department, by a local health official, or by the
 33 local health official’s designee under § 9–243(e) of this title; [and]

1 (ii) Related to identifying, monitoring, or regulating the utilization
 2 of sewage sludge, including program development; and

3 (iii) CONDUCTED BY THE DEPARTMENT UNDER SUBTITLE 23 OF
 4 THIS TITLE; AND

5 (7) Providing supplemental inspections and monitoring of sewage sludge
 6 utilization sites by:

7 (i) Contracting with a county on request of that county to provide
 8 supplemental inspections and monitoring; and

9 (ii) Limiting the value of services provided under the contract to no
 10 more than 45% of the generator fees for sludge utilized in that county that is generated
 11 outside of that county or service area.

12 **SUBTITLE 23. ~~COAL TAR PAVEMENT PRODUCTS~~ DRIVEWAY SEALERS.**

13 **9-2301.**

14 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 15 INDICATED.

16 ~~(B) (1) "COAL TAR" MEANS A VISCOUS SUBSTANCE THAT IS OBTAINED~~
 17 ~~FROM THE DISTILLATION OF BITUMINOUS COAL.~~

18 ~~(2) "COAL TAR" INCLUDES:~~

19 ~~(I) REFINED COAL TAR;~~

20 ~~(II) HIGH TEMPERATURE COAL TAR;~~

21 ~~(III) COAL TAR PITCH; AND~~

22 ~~(IV) COAL TAR PITCH VOLATILES.~~

23 ~~(C) "COAL TAR PAVEMENT PRODUCT" MEANS A PRODUCT THAT:~~

24 ~~(1) CONTAINS COAL TAR; AND~~

25 ~~(2) IS INTENDED FOR USE AS A SEALANT ON PAVEMENT OR A SIMILAR~~
 26 ~~SURFACE.~~

1 (B) "DRIVEWAY SEALER" MEANS A COATING LABELED AND FORMULATED
2 FOR APPLICATION TO WORN ASPHALT DRIVEWAY AND PARKING LOT SURFACES TO:

3 (1) FILL CRACKS;

4 (2) SEAL THE SURFACE TO PROVIDE PROTECTION; OR

5 (3) RESTORE OR PRESERVE APPEARANCE.

6 (C) "HIGH-PAH DRIVEWAY SEALER" MEANS A DRIVEWAY SEALER
7 CONTAINING MORE THAN 0.100% POLYCYCLIC AROMATIC HYDROCARBONS BY
8 WEIGHT.

9 ~~9-2302.~~

10 ~~THIS SUBTITLE DOES NOT APPLY TO A WASTEWATER TREATMENT FACILITY~~
11 ~~THAT USES COAL TAR TO SEAL COMPONENTS OF A SEWERAGE SYSTEM.~~

12 ~~9-2303~~ 9-2302.

13 ON OR AFTER OCTOBER 1, 2022, A PERSON MAY NOT:

14 ~~(1) APPLY A COAL TAR PAVEMENT PRODUCT THAT CONTAINS LEVELS~~
15 ~~OF POLYCYCLIC AROMATIC HYDROCARBONS GREATER THAN 1,000 MILLIGRAMS~~
16 ~~PER KILOGRAM TO PAVEMENT OR A SIMILAR SURFACE~~ SUPPLY, SELL, OFFER FOR
17 SALE, OR MANUFACTURE A HIGH-PAH DRIVEWAY SEALER FOR USE IN THE STATE;
18 ~~OR~~

19 ~~(2) APPLY MORE THAN ONE LAYER OF A COAL TAR PAVEMENT~~
20 ~~PRODUCT THAT CONTAINS LEVELS OF POLYCYCLIC AROMATIC HYDROCARBONS OF~~
21 ~~1,000 MILLIGRAMS PER KILOGRAM OR LESS~~ OR SOLICIT THE APPLICATION OF A
22 HIGH-PAH DRIVEWAY SEALER TO PAVEMENT ~~OR A SIMILAR SURFACE~~ IN THE
23 STATE; OR

24 (3) SUPPLY, SELL, OFFER FOR SALE, OR MANUFACTURE A DRIVEWAY
25 SEALER FOR USE IN THE STATE UNLESS THE DRIVEWAY SEALER IS LABELED IN
26 ACCORDANCE WITH § 9-2303 OF THIS SUBTITLE.

27 9-2303.

28 (A) THE DEPARTMENT SHALL DEVELOP LABELING STANDARDS FOR A
29 PERSON SUPPLYING, SELLING, OFFERING FOR SALE, OR MANUFACTURING A
30 DRIVEWAY SEALER FOR USE IN THE STATE, INCLUDING THE PLACEMENT OF THE

1 COMPOSITION OF THE DRIVEWAY SEALER AS A PERCENTAGE OF POLYCYCLIC
2 AROMATIC HYDROCARBONS BY WEIGHT ON THE LABEL.

3 (B) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ALLOW A
4 SEALANT MANUFACTURER TO LABEL A PRODUCT CONTAINING LESS THAN 50 PPM
5 POLYCYCLIC AROMATIC HYDROCARBONS BY WEIGHT AS “LOW PAH”.

6 (2) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT
7 THIS SUBTITLE.

8 9-2304.

9 (A) THE PROVISIONS OF §§ 9-334 THROUGH 9-344 OF THIS TITLE APPLY TO
10 ENFORCE VIOLATIONS OF:

11 (1) THIS SUBTITLE;

12 (2) ANY REGULATION ADOPTED UNDER THIS SUBTITLE; OR

13 (3) ANY ORDER ISSUED UNDER THIS SUBTITLE.

14 (B) ANY PENALTY COLLECTED BY THE DEPARTMENT UNDER THIS SECTION
15 SHALL BE PAID INTO THE MARYLAND CLEAN WATER FUND ESTABLISHED UNDER §
16 9-320 OF THIS TITLE.

17 ~~A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO:~~

18 ~~(1) FOR A FIRST VIOLATION, A CIVIL PENALTY NOT EXCEEDING \$500;~~
19 ~~AND~~

20 ~~(2) FOR A SECOND OR SUBSEQUENT VIOLATION, A CIVIL PENALTY~~
21 ~~NOT EXCEEDING \$1,000.~~

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2021.