

HOUSE BILL 264

M3

(PRE-FILED)

11r0528
CF SB 483

By: **Delegate Charkoudian**

Requested: August 28, 2020

Introduced and read first time: January 13, 2021

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 6, 2021

CHAPTER _____

1 AN ACT concerning

2 **Solid Waste Management – Organics Recycling and Waste Diversion – Food**
3 **Residuals**

4 FOR the purpose of requiring a certain person that generates food residuals to separate the
5 food residuals from other solid waste and ensure that the food residuals are diverted
6 from final disposal in a refuse disposal system in a certain manner under certain
7 circumstances; authorizing a certain person to apply to the Department of the
8 Environment for a certain waiver; authorizing the Department of the Environment
9 to grant a certain waiver under certain circumstances; requiring the Department of
10 the Environment to establish certain procedures; establishing certain penalties for
11 certain violations; requiring certain penalties to be distributed to a special fund for
12 certain purposes; requiring, on or before a certain date and each year thereafter, the
13 Department of the Environment to report to the General Assembly on the
14 implementation of this Act; providing that this Act may not be construed to preempt
15 or prevail over any ordinance, resolution, law, or rule more stringent than this Act;
16 requiring the Department of the Environment to establish certain guidelines,
17 develop certain mapping, develop a certain plan and, on or before a certain date,
18 report to the General Assembly on a certain plan; ~~requiring, on or before a certain~~
19 ~~date, the Department of the Environment, in conjunction with the Department of~~
20 ~~General Services and the Department of Natural Resources, to provide a certain~~
21 ~~report to the General Assembly;~~ requiring the Department of Commerce to report
22 certain recommendations to the General Assembly on or before a certain date;
23 providing for the application of this Act; defining certain terms; and generally
24 relating to organics recycling and waste diversion.

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 repealing and reenacting, without amendments,
2 Article – Environment
3 Section 9–201(a) and (e) and 9–1701(a), (b), (d), (n), (o), and (q)
4 Annotated Code of Maryland
5 (2014 Replacement Volume and 2020 Supplement)

6 BY adding to
7 Article – Environment
8 Section 9–1701(i–1) and (r–1) and 9–1724.1
9 Annotated Code of Maryland
10 (2014 Replacement Volume and 2020 Supplement)

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

13 **Article – Environment**

14 9–201.

15 (a) In this subtitle the following words have the meanings indicated.

16 (e) “Refuse disposal system” includes:

17 (1) An incinerator;

18 (2) A transfer station;

19 (3) A landfill system;

20 (4) A landfill;

21 (5) A solid waste processing facility; and

22 (6) Any other solid waste acceptance facility.

23 9–1701.

24 (a) In this subtitle the following words have the meanings indicated.

25 (b) “Anaerobic digestion” means the controlled anaerobic biological decomposition
26 of organic waste material to produce biogas and digestate.

27 (d) “Composting” means the controlled aerobic biological decomposition of organic
28 waste material in accordance with the standards established by the Secretary under this
29 title.

1 (I-1) "FOOD RESIDUALS" MEANS MATERIAL DERIVED FROM THE
2 PROCESSING OR DISCARDING OF FOOD, INCLUDING PRE- AND POST-CONSUMER
3 VEGETABLES, FRUITS, GRAINS, DAIRY PRODUCTS, AND MEATS.

4 (n) (1) "Organics recycling" means any process in which organic materials are
5 collected, separated, or processed and returned to the marketplace in the form of raw
6 materials or products.

7 (2) "Organics recycling" includes anaerobic digestion and composting.

8 (o) "Organics recycling facility" means a facility where organics recycling takes
9 place.

10 (q) "Recycling" means any process in which recyclable materials are collected,
11 separated, or processed and returned to the marketplace in the form of raw materials or
12 products.

13 (R-1) "REFUSE DISPOSAL SYSTEM" HAS THE MEANING STATED IN § 9-201 OF
14 THIS TITLE.

15 9-1724.1.

16 (A) IN THIS SECTION, "PERSON":

17 (1) INCLUDES:

18 (I) AN INDIVIDUAL FACILITY OWNED OR OPERATED BY A LOCAL
19 SCHOOL SYSTEM;

20 (II) AN INDIVIDUAL PUBLIC PRIMARY OR SECONDARY SCHOOL;

21 (III) AN INDIVIDUAL NONPUBLIC SCHOOL;

22 (IV) A SUPERMARKET, CONVENIENCE STORE, MINI-MART, OR
23 SIMILAR ESTABLISHMENT;

24 (V) A BUSINESS, SCHOOL, OR INSTITUTIONAL CAFETERIA; AND

25 (VI) A CAFETERIA OPERATED BY OR ON BEHALF OF THE STATE
26 OR A LOCAL GOVERNMENT; AND

27 (2) DOES NOT INCLUDE:

28 (I) THE AGGREGATE OF ALL SCHOOL BUILDINGS AND
29 FACILITIES IN A LOCAL SCHOOL SYSTEM; OR

1 (III) MANAGING THE FOOD RESIDUALS IN AN ORGANICS
2 RECYCLING SYSTEM INSTALLED ON-SITE;

3 (IV) PROVIDING FOR THE COLLECTION AND TRANSPORTATION
4 OF THE FOOD RESIDUALS FOR AGRICULTURAL USE, INCLUDING FOR USE AS ANIMAL
5 FEED;

6 (V) PROVIDING FOR THE COLLECTION AND TRANSPORTATION
7 OF THE FOOD RESIDUALS FOR PROCESSING IN AN ORGANICS RECYCLING FACILITY;
8 OR

9 (VI) ENGAGING IN ANY COMBINATION OF THE WASTE DIVERSION
10 ACTIVITIES LISTED UNDER ITEMS (I) THROUGH (V) OF THIS ITEM.

11 ~~(C)~~ (D) (1) A PERSON THAT GENERATES FOOD RESIDUALS MAY APPLY
12 TO THE DEPARTMENT FOR A WAIVER FROM THE REQUIREMENTS OF SUBSECTION
13 ~~(B)~~ (C) OF THIS SECTION.

14 (2) THE DEPARTMENT MAY GRANT A WAIVER UNDER PARAGRAPH (1)
15 OF THIS SUBSECTION IF THE PERSON DEMONSTRATES, TO THE SATISFACTION OF
16 THE DEPARTMENT, UNDUE HARDSHIP BECAUSE OF THE FOLLOWING:

17 (I) THE COST OF DIVERTING FOOD RESIDUALS FROM A REFUSE
18 DISPOSAL SYSTEM IS ~~NOT REASONABLY COMPETITIVE WITH~~ MORE THAN 10% MORE
19 EXPENSIVE THAN THE COST OF DISPOSING THE FOOD RESIDUALS AT A REFUSE
20 DISPOSAL SYSTEM; OR

21 (II) OTHER REASONABLE CIRCUMSTANCES.

22 (3) THE DEPARTMENT SHALL ESTABLISH WAIVER APPLICATION
23 PROCEDURES TO CARRY OUT THIS SUBSECTION.

24 ~~(D)~~ (E) ON OR BEFORE DECEMBER 1, 2023, AND EACH DECEMBER 1
25 THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN
26 ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE
27 IMPLEMENTATION OF THIS SECTION, INCLUDING THE IMPACTS ON WASTE
28 DIVERSION IN THE STATE.

29 ~~(E)~~ (F) (1) A PERSON WHO VIOLATES THIS SECTION OR ANY RULE OR
30 REGULATION ADOPTED UNDER THIS SECTION SHALL BE SUBJECT TO A CIVIL
31 PENALTY, TO BE COLLECTED IN A CIVIL ACTION BROUGHT BY THE DEPARTMENT,
32 OF:

- 1 **(I) \$250 FOR THE FIRST VIOLATION;**
2 **(II) \$500 FOR THE SECOND VIOLATION; AND**
3 **(III) \$1000 FOR THE THIRD AND EACH SUBSEQUENT VIOLATION.**

4 **(2) EACH DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION**
5 **UNDER THIS SECTION.**

6 **(3) PENALTIES COLLECTED UNDER THIS SUBSECTION SHALL BE**
7 **DISTRIBUTED TO A SPECIAL FUND, TO BE USED ONLY TO FINANCE INCENTIVES THAT**
8 **ENCOURAGE FOOD WASTE REDUCTION AND COMPOSTING IN THE STATE.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed
10 to preempt or prevail over any local ordinance, resolution, law, or rule more stringent than
11 this Act.

12 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of the
13 Environment shall:

14 (1) establish guidelines to assist businesses with complying with the
15 provisions of this Act, including guidelines for estimating the weight of the food residuals
16 generated by a business;

17 (2) develop mapping and other systems to identify existing composting
18 facilities and the geographic areas within the 30-mile radius of each facility;

19 (3) develop a plan for implementing the provisions of this Act, including a
20 plan for educating large generators of food residuals on:

21 (i) the provisions of this Act; and

22 (ii) the benefits of organics recycling; and

23 (4) on or before July 1, 2022, report to the General Assembly, in accordance
24 with § 2-1257 of the State Government Article, on the Department's plan for implementing
25 the provisions of this Act.

26 ~~SECTION 4. AND BE IT FURTHER ENACTED, That on or before October 1, 2022,~~
27 ~~the Department of the Environment, in conjunction with the Department of General~~
28 ~~Services and the Department of Natural Resources, shall report to the General Assembly,~~
29 ~~in accordance with § 2-1257 of the State Government Article, on State properties that are~~
30 ~~suitable for use as organics recycling facilities in a manner that is consistent with~~
31 ~~programmatic recommendation number 9 in the final report of the Yard Waste, Food~~
32 ~~Residuals, and Other Organic Materials Diversion and Infrastructure Study Group issued~~
33 ~~in 2019 as required by Chapters 383 and 384 of the Acts of 2017.~~

1 SECTION ~~5~~ 4. AND BE IT FURTHER ENACTED, That on or before January 1,
2 2023, the Department of Commerce shall report to the General Assembly, in accordance
3 with § 2-1257 of the State Government Article, on recommendations for financial and other
4 incentives to encourage food waste reduction and composting in the State.

5 SECTION ~~6~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.