

SENATE BILL 483

M3

(11r1590)

ENROLLED BILL

— Education, Health, and Environmental Affairs/Environment and Transportation —

Introduced by ~~Senator Hettleman~~ Senators Hettleman, Hester, Kagan, and Pinsky

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

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; *requiring the Department of the*
11 *Environment to issue a warning under certain circumstances*; establishing certain
12 penalties for certain violations; requiring certain penalties to be distributed to a
13 special fund for certain purposes; requiring, on or before a certain date and each year
14 thereafter, the Department of the Environment to report to the General Assembly
15 on the implementation of this Act; providing that this Act may not be construed to

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.

Italics indicate opposite chamber/conference committee amendments.



1 preempt or prevail over any ordinance, resolution, law, or rule more stringent than
 2 this Act; requiring the Department of the Environment to establish certain
 3 guidelines, develop certain mapping, develop a certain plan and, on or before a
 4 certain date, report to the General Assembly on a certain plan; ~~requiring, on or before~~
 5 ~~a certain date, the Department of the Environment, in conjunction with the~~
 6 ~~Department of General Services and the Department of Natural Resources, to~~
 7 ~~provide a certain report to the General Assembly;~~ requiring the Department of
 8 Commerce to report certain recommendations to the General Assembly on or before
 9 a certain date; providing for the application of this Act; defining certain terms; and
 10 generally relating to organics recycling and waste diversion.

11 BY repealing and reenacting, without amendments,
 12 Article – Environment
 13 Section 9–201(a) and (e) and 9–1701(a), (b), (d), (n), (o), and (q)
 14 Annotated Code of Maryland
 15 (2014 Replacement Volume and 2020 Supplement)

16 BY adding to
 17 Article – Environment
 18 Section 9–1701(i–1) and (r–1) and 9–1724.1
 19 Annotated Code of Maryland
 20 (2014 Replacement Volume and 2020 Supplement)

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

23 Article – Environment

24 9–201.

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

26 (e) “Refuse disposal system” includes:

27 (1) An incinerator;

28 (2) A transfer station;

29 (3) A landfill system;

30 (4) A landfill;

31 (5) A solid waste processing facility; and

32 (6) Any other solid waste acceptance facility.

33 9–1701.

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

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

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

7 **(I-1) “FOOD RESIDUALS” MEANS MATERIAL DERIVED FROM THE**
8 **PROCESSING OR DISCARDING OF FOOD, INCLUDING PRE- AND POST-CONSUMER**
9 **VEGETABLES, FRUITS, GRAINS, DAIRY PRODUCTS, AND MEATS.**

10 (n) (1) “Organics recycling” means any process in which organic materials are
11 collected, separated, or processed and returned to the marketplace in the form of raw
12 materials or products.

13 (2) “Organics recycling” includes anaerobic digestion and composting.

14 (o) “Organics recycling facility” means a facility where organics recycling takes
15 place.

16 (q) “Recycling” means any process in which recyclable materials are collected,
17 separated, or processed and returned to the marketplace in the form of raw materials or
18 products.

19 **(R-1) “REFUSE DISPOSAL SYSTEM” HAS THE MEANING STATED IN § 9-201 OF**
20 **THIS TITLE.**

21 **9-1724.1.**

22 **(A) IN THIS SECTION, “PERSON”:**

23 **(1) INCLUDES:**

24 **(I) AN INDIVIDUAL FACILITY OWNED OR OPERATED BY A LOCAL**
25 **SCHOOL SYSTEM;**

26 **(II) AN INDIVIDUAL PUBLIC PRIMARY OR SECONDARY SCHOOL;**

27 **(III) AN INDIVIDUAL NONPUBLIC SCHOOL;**

28 **(IV) A SUPERMARKET, CONVENIENCE STORE, MINI-MART, OR**
29 **SIMILAR ESTABLISHMENT;**

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

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

4 (2) DOES NOT INCLUDE:

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

7 (II) A RESTAURANT ESTABLISHMENT THAT:

8 1. ACCOMMODATES THE PUBLIC; AND

9 2. IS EQUIPPED WITH A DINING ROOM WITH FACILITIES
 10 FOR PREPARING AND SERVING REGULAR MEALS.

11 ~~(A)~~ (B) THIS SECTION APPLIES ONLY TO A PERSON THAT:

12 (1) (I) ON OR AFTER JANUARY 1, 2023, GENERATES AT LEAST 2
 13 TONS OF FOOD RESIDUALS EACH WEEK; AND

14 (II) ON OR AFTER JANUARY 1, 2024, GENERATES AT LEAST 1
 15 TON OF FOOD RESIDUALS EACH WEEK; AND

16 (2) GENERATES THE FOOD RESIDUALS AT A LOCATION THAT IS
 17 WITHIN A 30-MILE RADIUS OF AN ORGANICS RECYCLING FACILITY THAT:

18 (I) HAS THE CAPACITY TO ACCEPT AND PROCESS ALL OF THE
 19 PERSON'S FOOD RESIDUALS; ~~AND~~

20 (II) IS WILLING TO ACCEPT ALL OF THE PERSON'S FOOD
 21 RESIDUALS FOR RECYCLING; AND

22 (III) IS WILLING TO ENTER INTO A CONTRACT TO ACCEPT AND
 23 PROCESS THE PERSON'S FOOD RESIDUALS.

24 ~~(B)~~ (C) EXCEPT AS PROVIDED IN SUBSECTION ~~(C)~~ (D) OF THIS SECTION, A
 25 PERSON THAT GENERATES FOOD RESIDUALS SHALL:

26 (1) SEPARATE THE FOOD RESIDUALS FROM OTHER SOLID WASTE;
 27 AND

1 **(2) ENSURE THAT THE FOOD RESIDUALS ARE DIVERTED FROM FINAL**
2 **DISPOSAL IN A REFUSE DISPOSAL SYSTEM BY:**

3 **(I) REDUCING THE AMOUNT OF FOOD RESIDUALS GENERATED**
4 **BY THE PERSON;**

5 **(II) DONATING SERVABLE FOOD;**

6 **(III) MANAGING THE FOOD RESIDUALS IN AN ORGANICS**
7 **RECYCLING SYSTEM INSTALLED ON-SITE;**

8 **(IV) PROVIDING FOR THE COLLECTION AND TRANSPORTATION**
9 **OF THE FOOD RESIDUALS FOR AGRICULTURAL USE, INCLUDING FOR USE AS ANIMAL**
10 **FEED;**

11 **(V) PROVIDING FOR THE COLLECTION AND TRANSPORTATION**
12 **OF THE FOOD RESIDUALS FOR PROCESSING IN AN ORGANICS RECYCLING FACILITY;**
13 **OR**

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

16 ~~(C)~~ **(D) (1) A PERSON THAT GENERATES FOOD RESIDUALS MAY APPLY**
17 **TO THE DEPARTMENT FOR A WAIVER FROM THE REQUIREMENTS OF SUBSECTION**
18 ~~(B)~~ **(C) OF THIS SECTION.**

19 **(2) THE DEPARTMENT MAY GRANT A WAIVER UNDER PARAGRAPH (1)**
20 **OF THIS SUBSECTION IF THE PERSON DEMONSTRATES, TO THE SATISFACTION OF**
21 **THE DEPARTMENT, UNDUE HARDSHIP BECAUSE OF THE FOLLOWING:**

22 **(I) THE COST OF DIVERTING FOOD RESIDUALS FROM A REFUSE**
23 **DISPOSAL SYSTEM IS NOT REASONABLY COMPETITIVE WITH MORE THAN 10% MORE**
24 **EXPENSIVE THAN THE COST OF DISPOSING THE FOOD RESIDUALS AT A REFUSE**
25 **DISPOSAL SYSTEM; OR**

26 **(II) OTHER REASONABLE CIRCUMSTANCES.**

27 **(3) THE DEPARTMENT SHALL ESTABLISH WAIVER APPLICATION**
28 **PROCEDURES TO CARRY OUT THIS SUBSECTION.**

29 ~~(D)~~ **(E) ON OR BEFORE DECEMBER 1, 2023, AND EACH DECEMBER 1**
30 **THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN**
31 **ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE**

1 IMPLEMENTATION OF THIS SECTION, INCLUDING THE IMPACTS ON WASTE
2 DIVERSION IN THE STATE.

3 ~~(E)~~ (F) (1) ~~A~~ THE DEPARTMENT SHALL ISSUE A WARNING TO A PERSON
4 WHO VIOLATES THIS SECTION OR ANY RULE OR REGULATION ADOPTED UNDER THIS
5 SECTION.

6 (2) AFTER RECEIVING A WARNING ISSUED UNDER PARAGRAPH (1) OF
7 THIS SUBSECTION, A PERSON WHO SUBSEQUENTLY VIOLATES THIS SECTION, OR ANY
8 RULE OR REGULATION ADOPTED UNDER THIS SECTION, SHALL BE SUBJECT TO A
9 CIVIL PENALTY, TO BE COLLECTED IN A CIVIL ACTION BROUGHT BY THE
10 DEPARTMENT, OF:

11 (I) \$250 FOR THE ~~FIRST~~ SECOND VIOLATION;

12 (II) \$500 FOR THE ~~SECOND~~ THIRD VIOLATION; AND

13 (III) \$1,000 FOR THE ~~THIRD~~ FOURTH AND EACH SUBSEQUENT
14 VIOLATION.

15 ~~(2)~~ (3) EACH DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION
16 UNDER THIS SECTION.

17 ~~(3)~~ (4) PENALTIES COLLECTED UNDER THIS SUBSECTION SHALL
18 BE DISTRIBUTED TO A SPECIAL FUND, TO BE USED ONLY TO FINANCE INCENTIVES
19 THAT ENCOURAGE FOOD WASTE REDUCTION AND COMPOSTING IN THE STATE.

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

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

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

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

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

32 (i) the provisions of this Act; and

1 (ii) the benefits of organics recycling; and

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

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

13 SECTION ~~5.~~ 4. AND BE IT FURTHER ENACTED, That on or before January 1,
 14 2023, the Department of Commerce shall report to the General Assembly, in accordance
 15 with § 2-1257 of the State Government Article, on recommendations for financial and other
 16 incentives to encourage food waste reduction and composting in the State.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.