

HOUSE BILL 700

M3

2lr1545

By: **Delegates Love, Barve, Feldmark, Foley, Lehman, Palakovich Carr,
Pena–Melnik, Ruth, Solomon, Stein, Stewart, and Terrasa**

Introduced and read first time: January 31, 2022

Assigned to: Environment and Transportation and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Products and Packaging – Labeling, Marketing, and Advertising**
3 **for Recycling**

4 FOR the purpose of altering certain plastic resin labeling requirements for rigid plastic
5 containers and plastic bottles; prohibiting the display of a certain symbol on rigid
6 plastic containers and plastic bottles if the containers and bottles do not meet certain
7 requirements; prohibiting a person from making certain environmental marketing
8 claims; prohibiting a person from offering for sale, selling, distributing, or importing
9 into the State any product or packaging labeled with or depicting certain
10 environmental marketing claims; establishing requirements that a product or
11 packaging must meet to be considered recyclable in the State; requiring the
12 Department of the Environment to update its refuse disposal system and resource
13 recovery facility regulations in a certain manner on or before a certain date; and
14 generally relating to labeling, marketing, and advertising requirements for recycling
15 products and packaging in the State.

16 BY repealing and reenacting, with amendments,
17 Article – Environment
18 Section 9–1710
19 Annotated Code of Maryland
20 (2014 Replacement Volume and 2021 Supplement)

21 BY adding to
22 Article – Environment
23 Section 9–2401 through 9–2406 to be under the new subtitle “Subtitle 24. Labeling,
24 Marketing, and Advertising Products and Packaging for Recycling”
25 Annotated Code of Maryland
26 (2014 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Environment**

4 9–1710.

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

6 (2) “Container” means any rigid plastic container or plastic bottle.

7 (3) “Label” means a molded, imprinted, or raised symbol located on or near
8 the bottom of a container.

9 (4) “Plastic bottle” means a plastic container intended for single use that:

10 (i) Has a neck that is smaller than the container;

11 (ii) Accepts a screw–type, snap cap, or other similar closure; and

12 (iii) Has a capacity of at least 16 fluid ounces but less than 5 gallons.

13 (5) “Rigid plastic container” means any formed or molded container, other
14 than a bottle that:

15 (i) Is intended for single use;

16 (ii) Is predominantly composed of plastic resin;

17 (iii) Has a relatively inflexible finite shape or form; and

18 (iv) Has a capacity of at least 8 ounces but less than 5 gallons.

19 (b) A person may not distribute for sale in the State any container unless the
20 container is labeled indicating the plastic resin used to produce the container.

21 (c) (1) The label required under subsection (b) of this section shall:

22 (i) Appear on or near the bottom of the container; **AND**

23 (ii) Be clearly visible[]; and

24 (iii) Consist of:

25 1. A number placed within 3 arrows forming a triangle as
26 described in paragraph (2) of this subsection; and

1 **9-2401.**

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) "ENVIRONMENTAL MARKETING CLAIM" MEANS A CLAIM SPECIFIED IN
5 THE FEDERAL TRADE COMMISSION'S GUIDES FOR THE USE OF ENVIRONMENTAL
6 MARKETING CLAIMS.

7 (C) (1) "MANUFACTURER AND DISTRIBUTOR" AND "MANUFACTURER OR
8 DISTRIBUTOR" MEAN A PERSON THAT MANUFACTURES OR DISTRIBUTES A
9 PRODUCT:

10 (I) ADVERTISED OR LABELED AS NOT HARMFUL TO OR AS
11 BENEFICIAL TO THE ENVIRONMENT, SUCH AS ADVERTISEMENTS OR LABELS USING
12 ANY OF THE FOLLOWING PHRASES:

- 13 1. ENVIRONMENTAL CHOICE;
- 14 2. ECOLOGICALLY FRIENDLY;
- 15 3. EARTH-FRIENDLY;
- 16 4. ENVIRONMENTALLY FRIENDLY;
- 17 5. ECOLOGICALLY SOUND;
- 18 6. ENVIRONMENTALLY SOUND;
- 19 7. ENVIRONMENTALLY SAFE;
- 20 8. ECOLOGICALLY SAFE;
- 21 9. ENVIRONMENTALLY LITE; OR
- 22 10. GREEN; OR

23 (II) THAT INCLUDES A DEPICTION OF A RECYCLING SYMBOL OR
24 OTHER SYMBOL OR PHRASE ENCOURAGING THE CONSUMER TO RECYCLE THE
25 PRODUCT.

1 **(2) “MANUFACTURER AND DISTRIBUTOR” AND “MANUFACTURER OR**
2 **DISTRIBUTOR” DO NOT INCLUDE A WHOLESALER OR RETAILER THAT DOES NOT**
3 **ITSELF:**

4 **(I) ADVERTISE OR LABEL A PRODUCT AS NOT HARMFUL TO OR**
5 **AS BENEFICIAL TO THE ENVIRONMENT; OR**

6 **(II) INCLUDE ON A PRODUCT A DEPICTION OF A RECYCLING**
7 **SYMBOL OR OTHER SYMBOL OR PHRASE ENCOURAGING THE CONSUMER TO**
8 **RECYCLE THE PRODUCT.**

9 **(D) “REFUSE DISPOSAL SYSTEM” HAS THE MEANING STATED IN § 9-201 OF**
10 **THIS TITLE.**

11 **(E) “RESOURCE RECOVERY FACILITY” MEANS A PROCESSING FACILITY AT**
12 **WHICH COMPONENT MATERIALS OF SOLID WASTE ARE RECOVERED FOR USE AS RAW**
13 **MATERIALS OR ENERGY SOURCES.**

14 **9-2402.**

15 **IT IS THE PUBLIC POLICY OF THE STATE THAT:**

16 **(1) ENVIRONMENTAL MARKETING CLAIMS, WHETHER EXPLICIT OR**
17 **IMPLIED, SHOULD BE SUBSTANTIATED BY COMPETENT AND RELIABLE EVIDENCE TO**
18 **PREVENT DECEIVING OR MISLEADING CONSUMERS ABOUT THE ENVIRONMENTAL**
19 **IMPACT OF PRODUCTS AND PACKAGING;**

20 **(2) FOR CONSUMERS TO HAVE ACCURATE AND USEFUL INFORMATION**
21 **ABOUT THE ENVIRONMENTAL IMPACT OF PRODUCTS AND PACKAGING,**
22 **ENVIRONMENTAL MARKETING CLAIMS SHOULD ADHERE TO UNIFORM AND**
23 **RECOGNIZED STANDARDS, INCLUDING STANDARD SPECIFICATIONS ESTABLISHED**
24 **BY ASTM INTERNATIONAL;**

25 **(3) CLAIMS RELATED TO THE RECYCLABILITY OF PRODUCTS AND**
26 **PACKAGING BE ACCURATE AND TRUTHFUL IN PRACTICE; AND**

27 **(4) CONSUMERS DESERVE ACCURATE AND USEFUL INFORMATION**
28 **RELATED TO PROPER DISPOSAL OF PRODUCTS AND PACKAGING.**

29 **9-2403.**

30 **(A) (1) A PERSON MAY NOT MAKE AN EXPLICIT OR IMPLIED**
31 **UNTRUTHFUL, DECEPTIVE, OR MISLEADING ENVIRONMENTAL MARKETING CLAIM.**

1 **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
2 **PARAGRAPH, IT IS A DEFENSE TO AN ACTION UNDER THIS SUBSECTION THAT THE**
3 **PERSON'S ENVIRONMENTAL MARKETING CLAIM CONFORMS TO THE STANDARDS OR**
4 **ARE CONSISTENT WITH THE EXAMPLES CONTAINED IN THE FEDERAL TRADE**
5 **COMMISSION'S GUIDES FOR THE USE OF ENVIRONMENTAL MARKETING CLAIMS.**

6 **(II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT APPLY**
7 **TO A CLAIM MADE FOR A VIOLATION OF SUBSECTION (C)(1) OF THIS SECTION OR §**
8 **9-1710 OF THIS TITLE.**

9 **(B) A PERSON MAY NOT OFFER FOR SALE, SELL, DISTRIBUTE, OR IMPORT**
10 **INTO THE STATE ANY PRODUCT OR PACKAGING LABELED WITH OR DEPICTING AN**
11 **UNTRUTHFUL, DECEPTIVE, OR MISLEADING ENVIRONMENTAL MARKETING CLAIM**
12 **REGARDING THE RECYCLABILITY OF THE PRODUCT OR PACKAGING.**

13 **(C) A PRODUCT OR PACKAGING DISPLAYING A RECYCLING SYMBOL, OTHER**
14 **SYMBOL, OR STATEMENT INDICATING THE PRODUCT OR PACKAGING IS RECYCLABLE**
15 **OR DIRECTING THE CONSUMER TO RECYCLE THE PRODUCT OR PACKAGING IS AN**
16 **UNTRUTHFUL, DECEPTIVE, OR MISLEADING CLAIM UNDER THIS SECTION UNLESS**
17 **THE PRODUCT OR PACKAGING IS:**

18 **(1) (I) CONSIDERED RECYCLABLE UNDER § 9-2404 OF THIS**
19 **SUBTITLE; AND**

20 **(II) COMPOSED OF A MATERIAL THAT ROUTINELY BECOMES**
21 **FEEDSTOCK FOR THE PRODUCTION OF NEW PRODUCTS OR PACKAGING; OR**

22 **(2) REQUIRED UNDER FEDERAL OR STATE LAW TO DISPLAY A**
23 **RECYCLING SYMBOL, OTHER SYMBOL, OR STATEMENT INDICATING THE PRODUCT**
24 **OR PACKAGING IS RECYCLABLE OR DIRECTING THE CONSUMER TO RECYCLE THE**
25 **PRODUCT OR PACKAGING.**

26 **(D) IF A PRODUCT OR PACKAGING INCLUDES MULTIPLE TYPES OF**
27 **MATERIALS, A RECYCLING SYMBOL OR STATEMENT INDICATING RECYCLABILITY**
28 **MAY BE DISPLAYED ON EXTERNAL PACKAGING CONSIDERED RECYCLABLE UNDER §**
29 **9-2404 OF THIS SUBTITLE IF THE RECYCLING SYMBOL OR STATEMENT MAKES**
30 **CLEAR IN THE SAME OR LARGER FONT SIZE OR SYMBOL SIZE THAT THE OTHER**
31 **COMPONENTS OF THE PRODUCT OR PACKAGING ARE NOT RECYCLABLE.**

32 **(E) THE FOLLOWING ARE NOT UNTRUTHFUL, DECEPTIVE, OR MISLEADING**
33 **CLAIMS UNDER THIS SECTION:**

1 **(1) USING A RECYCLING SYMBOL IN COMBINATION WITH A CLEARLY**
2 **VISIBLE LINE PLACED AT A 45-DEGREE ANGLE OVER THE RECYCLING SYMBOL TO**
3 **CONVEY THAT A PRODUCT OR PACKAGING IS NOT RECYCLABLE;**

4 **(2) DISPLAYING A RECYCLING SYMBOL ON A PRODUCT OR**
5 **PACKAGING IF REQUIRED UNDER STATE OR FEDERAL LAW OR REGULATION;**

6 **(3) DIRECTING A CONSUMER TO COMPOST OR PROPERLY DISPOSE OF**
7 **A CONSUMER GOOD THROUGH AN ORGANICS RECYCLING PROGRAM; AND**

8 **(4) A RESIN IDENTIFICATION CODE USED IN ACCORDANCE WITH §**
9 **9-1710 OF THIS TITLE.**

10 **9-2404.**

11 **(A) A PRODUCT OR PACKAGING IS CONSIDERED RECYCLABLE IN THE STATE**
12 **IF:**

13 **(1) (i) THE PRODUCT OR PACKAGING IS OF A MATERIAL TYPE AND**
14 **FORM THAT IS:**

15 **1. COLLECTED FOR RECYCLING IN JURISDICTIONS**
16 **THAT COLLECTIVELY ENCOMPASS AT LEAST 60% OF THE STATE POPULATION; AND**

17 **2. SORTED INTO DEFINED STREAMS FOR RECYCLING BY**
18 **LARGE VOLUME TRANSFER OR PROCESSING FACILITIES THAT PROCESS MATERIALS**
19 **AND COLLECTIVELY SERVE AT LEAST 60% OF RECYCLING PROGRAMS STATEWIDE;**

20 **(ii) THE PRODUCT OR PACKAGING IS NOT MADE FROM PLASTIC**
21 **OR FIBER THAT CONTAINS PERFLUOROALKYL OR POLYFLUOROALKYL SUBSTANCES,**
22 **ALSO KNOWN AS PFAS, THAT:**

23 **1. A. A MANUFACTURER OR DISTRIBUTOR HAS**
24 **INTENTIONALLY ADDED TO THE PRODUCT OR PACKAGING; AND**

25 **B. HAVE A FUNCTIONAL OR TECHNICAL EFFECT ON THE**
26 **PRODUCT OR PACKAGING; OR**

27 **2. IS AT OR ABOVE 100 PARTS PER MILLION, AS**
28 **MEASURED IN TOTAL ORGANIC FLUORINE;**

29 **(iii) FOR PLASTIC PRODUCTS AND NONPLASTIC PRODUCTS AND**
30 **PACKAGING, THE PRODUCT OR PACKAGING IS DESIGNED TO ENSURE**

1 RECYCLABILITY AND DOES NOT INCLUDE ANY COMPONENTS, INKS, ADHESIVES, OR
2 LABELS THAT PREVENT THE PRODUCT OR PACKAGING FROM BEING RECYCLED; AND

3 (IV) FOR PLASTIC PACKAGING, THE PLASTIC PACKAGING DOES
4 NOT INCLUDE ANY COMPONENTS, INKS, ADHESIVES, OR LABELS THAT, UNDER THE
5 ASSOCIATION OF PLASTIC RECYCLERS' APR DESIGN GUIDE, WOULD PREVENT THE
6 PACKAGING FROM BEING RECYCLED;

7 (2) AT LEAST 75% OF THE PRODUCT OR PACKAGING BEING SORTED
8 AND AGGREGATED IN THE STATE IS RECYCLED INTO NEW PRODUCTS OR
9 PACKAGING;

10 (3) (I) BEFORE JANUARY 1, 2031, THE PRODUCT OR PACKAGING:

11 1. IS COLLECTED UNDER A RECYCLING PROGRAM
12 OTHER THAN CURBSIDE COLLECTION THAT RECOVERS AT LEAST 60% OF THE
13 PRODUCT OR PACKAGING FROM THE WASTE STREAM; AND

14 2. HAS SUFFICIENT COMMERCIAL VALUE TO BE
15 MARKETED FOR RECYCLING AND TRANSPORTED AT THE END OF ITS USEFUL LIFE TO
16 A REFUSE DISPOSAL SYSTEM OR RESOURCE RECOVERY FACILITY TO BE SORTED AND
17 AGGREGATED INTO DEFINED STREAMS BY MATERIAL TYPE AND FORM; AND

18 (II) ON AND AFTER JANUARY 1, 2031, THE PRODUCT OR
19 PACKAGING:

20 1. IS COLLECTED UNDER A RECYCLING PROGRAM
21 OTHER THAN CURBSIDE COLLECTION THAT RECOVERS AT LEAST 75% OF THE
22 PRODUCT OR PACKAGING FROM THE WASTE STREAM; AND

23 2. HAS SUFFICIENT COMMERCIAL VALUE TO BE
24 MARKETED FOR RECYCLING AND TRANSPORTED AT THE END OF ITS USEFUL LIFE TO
25 A REFUSE DISPOSAL SYSTEM OR RESOURCE RECOVERY FACILITY TO BE SORTED AND
26 AGGREGATED INTO DEFINED STREAMS BY MATERIAL TYPE AND FORM; OR

27 (4) ON AND AFTER JANUARY 1, 2023:

28 (I) THE PRODUCT OR PACKAGING IS PART OF AND IN
29 COMPLIANCE WITH A PROGRAM ESTABLISHED IN ACCORDANCE WITH STATE OR
30 FEDERAL LAW GOVERNING THE RECYCLABILITY OR DISPOSAL OF THE PRODUCT OR
31 PACKAGING; AND

1 **(II) THE SECRETARY DETERMINES THAT THE PRODUCT OR**
2 **PACKAGING WILL NOT INCREASE CONTAMINATION OF CURBSIDE RECYCLING OR**
3 **DECEIVE CONSUMERS AS TO THE RECYCLABILITY OF THE PRODUCT OR PACKAGING.**

4 **(B) NOTHING IN THIS SECTION MAY BE CONSTRUED TO PREVENT A REFUSE**
5 **DISPOSAL SYSTEM OR RESOURCE RECOVERY FACILITY FROM ACCEPTING FOR**
6 **RECYCLING A PRODUCT OR PACKAGING THAT IS NOT CONSIDERED RECYCLABLE**
7 **UNDER SUBSECTION (A) OF THIS SECTION.**

8 **9-2405.**

9 **(A) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS**
10 **SUBTITLE, INCLUDING REGULATIONS EXPANDING THE TYPES OF FACILITIES**
11 **SPECIFIED UNDER § 9-2404(A)(1)(I)2 OF THIS SUBTITLE.**

12 **(B) (1) ON OR BEFORE JANUARY 1, 2025, THE DEPARTMENT SHALL**
13 **UPDATE ITS REFUSE DISPOSAL SYSTEM AND RESOURCE RECOVERY FACILITY**
14 **REGULATIONS TO REQUIRE THAT THE FOLLOWING INFORMATION BE SUBMITTED TO**
15 **THE DEPARTMENT:**

16 **(I) HOW THE MATERIAL COLLECTED OR PROCESSED BY THE**
17 **SYSTEM OR FACILITY WAS COLLECTED; AND**

18 **(II) THE TYPES AND FORMS OF MATERIALS ACTIVELY**
19 **RECOVERED AND NOT CONSIDERED CONTAMINANTS BY THE SYSTEM OR FACILITY.**

20 **(2) THE DEPARTMENT SHALL PUBLISH THE UPDATED REGULATIONS**
21 **REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION ON THE DEPARTMENT'S**
22 **WEBSITE.**

23 **9-2406.**

24 **(A) A PERSON WHO VIOLATES THIS SUBTITLE IS GUILTY OF A**
25 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$50 PER**
26 **VIOLATION.**

27 **(B) EACH DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION UNDER THIS**
28 **SUBTITLE.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2022.