

HOUSE BILL 31

M3

3lr0968

HB 700/22 – ENT & ECM

(PRE-FILED)

By: **Delegate Love**

Requested: November 19, 2022

Introduced and read first time: January 11, 2023

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; altering the capacity of the plastic bottles to which the
6 plastic resin labeling requirements apply; establishing plastic resin labeling
7 requirements for plastic bags; prohibiting the display of a certain symbol on plastic
8 bags, plastic bottles, and rigid plastic containers if the bags, bottles, and containers
9 do not meet certain requirements; prohibiting a person from making certain
10 environmental marketing claims; prohibiting a person from offering for sale, selling,
11 distributing, or importing into the State any product or packaging labeled with or
12 depicting certain environmental marketing claims; establishing requirements that a
13 product or packaging must meet to be considered recyclable in the State; 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 2022 Supplement)

21 BY adding to
22 Article – Environment
23 Section 9–2501 through 9–2506 to be under the new subtitle “Subtitle 25. Labeling,
24 Marketing, and Advertising Products and Packaging for Recycling”
25 Annotated Code of Maryland
26 (2014 Replacement Volume and 2022 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) (I) **“CHASING ARROWS SYMBOL” MEANS AN EQUILATERAL**
7 **TRIANGLE:**

8 **1. FORMED BY THREE MOLDED, IMPRINTED, OR RAISED**
9 **ARROWS CURVED AT THEIR MIDPOINTS, DEPICTING A CLOCKWISE PATH, WITH A**
10 **SHORT GAP SEPARATING THE POINTER OF EACH ARROW FROM THE BASE OF THE**
11 **ADJACENT ARROW;**

12 **2. WITH A MOLDED, IMPRINTED, OR RAISED NUMBER OR**
13 **LETTERS PLACED WITHIN OR BELOW THE TRIANGLE TO INDICATE THE PLASTIC**
14 **RESIN USED TO PRODUCE THE CONTAINER ON WHICH THE NUMBER OR LETTERS**
15 **WILL BE PLACED; AND**

16 **3. PLACED ON OR NEAR THE BOTTOM OF A CONTAINER**
17 **TO INDICATE THE PLASTIC RESIN USED TO PRODUCE THE CONTAINER.**

18 (II) **“CHASING ARROWS SYMBOL” INCLUDES ANY VARIATION OF**
19 **THE SYMBOL THAT A CUSTOMER IS LIKELY TO INTERPRET AS AN INDICATION OF**
20 **RECYCLABILITY, INCLUDING ONE OR MORE ARROWS ARRANGED IN A CIRCULAR**
21 **PATTERN OR AROUND A GLOBE.**

22 (3) **“Container” means any PLASTIC BAG, PLASTIC BOTTLE, OR rigid**
23 **plastic container [or plastic bottle].**

24 [(3) **“Label” means a molded, imprinted, or raised symbol located on or near**
25 **the bottom of a container.]**

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

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

28 (ii) **Accepts a screw-type, snap cap, or other similar closure; and**

29 (iii) **Has a capacity of at least [16] 8 fluid ounces but less than 5**
30 **gallons.**

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

- 3 (i) Is intended for single use;
- 4 (ii) Is predominantly composed of plastic resin;
- 5 (iii) Has a relatively inflexible finite shape or form; and
- 6 (iv) Has a capacity of at least 8 ounces but less than 5 gallons.

7 (b) A person may not distribute for sale in the State any container unless the
8 container is labeled **WITH A CHASING ARROWS SYMBOL** indicating the plastic resin used
9 to produce the container.

10 (c) (1) The [label] **CHASING ARROWS SYMBOL** required under subsection (b)
11 of this section shall:

- 12 (i) Appear on or near the bottom of the container; **AND**
- 13 (ii) Be clearly visible[]; and
- 14 (iii) Consist of:
- 15 1. A number placed within 3 arrows forming a triangle as
16 described in paragraph (2) of this subsection; and
- 17 2. Letters placed below the triangle of arrows.

18 (2) (i) The 3 arrows shall form an equilateral triangle with the apex of
19 each point of the triangle at the midpoint of each arrow, rounded with a short radius.

20 (ii) The arrowhead of each arrow shall be at the midpoint of each
21 side of the triangle with a short gap separating the pointer from the base of the adjacent
22 arrow.

23 (iii) The triangle formed by the 3 arrows curved at their midpoints
24 shall depict a clockwise path around the code number[].

25 **(2) A CONTAINER MAY NOT DISPLAY A CHASING ARROWS SYMBOL IF**
26 **THE CONTAINER IS NOT CONSIDERED RECYCLABLE UNDER § 9-2504 OF THIS TITLE.**

27 (3) [The] **ANY** numbering and lettering **USED TO INDICATE THE PLASTIC**
28 **RESIN USED TO PRODUCE A CONTAINER** shall be as follows:

- 1 (i) For polyethylene terephthalate, the letters “PETE” and the
2 number 1;
- 3 (ii) For high density polyethylene, the letters “HDPE” and the
4 number 2;
- 5 (iii) For vinyl, the letter “V” and the number 3;
- 6 (iv) For low density polyethylene, the letters “LDPE” and the number
7 4;
- 8 (v) For polypropylene, the letters “PP” and the number 5;
- 9 (vi) For polystyrene, the letters “PS” and the number 6; and
- 10 (vii) For any other plastic resin, the word “Other” and the number 7.

11 (d) Any person who knowingly and willfully distributes for sale a container in
12 violation of this section is guilty of a misdemeanor and on conviction is subject to a fine not
13 exceeding \$50 per violation.

14 (e) The Department shall adopt regulations to administer and enforce the
15 provisions of this section.

16 **SUBTITLE 25. LABELING, MARKETING, AND ADVERTISING PRODUCTS AND**
17 **PACKAGING FOR RECYCLING.**

18 **9–2501.**

19 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

21 (B) “CHASING ARROWS SYMBOL” HAS THE MEANING STATED IN § 9–1710 OF
22 THIS TITLE.

23 (C) “ENVIRONMENTAL MARKETING CLAIM” MEANS A CLAIM SPECIFIED IN
24 THE FEDERAL TRADE COMMISSION’S GUIDES FOR THE USE OF ENVIRONMENTAL
25 MARKETING CLAIMS.

26 (D) (1) “MANUFACTURER OR DISTRIBUTOR” MEANS A PERSON THAT
27 MANUFACTURES OR DISTRIBUTES A PRODUCT:

28 (I) ADVERTISED OR LABELED AS NOT HARMFUL TO OR AS
29 BENEFICIAL TO THE ENVIRONMENT, SUCH AS ADVERTISEMENTS OR LABELS USING
30 ANY OF THE FOLLOWING PHRASES:

- 1 1. ENVIRONMENTAL CHOICE;
- 2 2. ECOLOGICALLY FRIENDLY;
- 3 3. EARTH-FRIENDLY;
- 4 4. ENVIRONMENTALLY FRIENDLY;
- 5 5. ECOLOGICALLY SOUND;
- 6 6. ENVIRONMENTALLY SOUND;
- 7 7. ENVIRONMENTALLY SAFE;
- 8 8. ECOLOGICALLY SAFE;
- 9 9. ENVIRONMENTALLY LITE; OR
- 10 10. GREEN; OR

11 (II) THAT INCLUDES A DEPICTION OF A CHASING ARROWS
12 SYMBOL OR OTHER SYMBOL OR PHRASE ENCOURAGING THE CONSUMER TO
13 RECYCLE THE PRODUCT.

14 (2) “MANUFACTURER AND DISTRIBUTOR” AND “MANUFACTURER OR
15 DISTRIBUTOR” DO NOT INCLUDE A WHOLESALER OR RETAILER THAT DOES NOT
16 ITSELF:

17 (I) ADVERTISE OR LABEL A PRODUCT AS NOT HARMFUL TO OR
18 AS BENEFICIAL TO THE ENVIRONMENT; OR

19 (II) INCLUDE ON A PRODUCT A DEPICTION OF A CHASING
20 ARROWS SYMBOL OR OTHER SYMBOL OR PHRASE ENCOURAGING THE CONSUMER TO
21 RECYCLE THE PRODUCT.

22 (E) “MATERIALS RECOVERY FACILITY” MEANS A FACILITY THAT
23 PROCESSES RECYCLABLE MATERIALS TO SELL TO MANUFACTURERS FOR USE AS
24 RAW MATERIALS FOR NEW PRODUCTS.

25 (F) “REFUSE DISPOSAL SYSTEM” HAS THE MEANING STATED IN § 9-201 OF
26 THIS TITLE.

1 **9-2502.**

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

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

7 **(2) FOR CONSUMERS TO HAVE ACCURATE AND USEFUL INFORMATION**
8 **ABOUT THE ENVIRONMENTAL IMPACT OF PRODUCTS AND PACKAGING,**
9 **ENVIRONMENTAL MARKETING CLAIMS SHOULD ADHERE TO UNIFORM AND**
10 **RECOGNIZED STANDARDS, INCLUDING STANDARD SPECIFICATIONS ESTABLISHED**
11 **BY ASTM INTERNATIONAL;**

12 **(3) ENVIRONMENTAL MARKETING CLAIMS RELATED TO THE**
13 **RECYCLABILITY OF PRODUCTS AND PACKAGING SHOULD BE ACCURATE AND**
14 **TRUTHFUL IN PRACTICE; AND**

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

17 **9-2503.**

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

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

25 **(II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT APPLY**
26 **TO A CLAIM MADE FOR A VIOLATION OF SUBSECTION (C) OF THIS SECTION OR §**
27 **9-1710 OF THIS TITLE.**

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

1 (C) THE DISPLAY OF A CHASING ARROWS SYMBOL, OTHER SYMBOL, OR
2 STATEMENT INDICATING THE PRODUCT OR PACKAGING IS RECYCLABLE OR
3 DIRECTING THE CONSUMER TO RECYCLE THE PRODUCT OR PACKAGING IS AN
4 UNTRUTHFUL, DECEPTIVE, OR MISLEADING ENVIRONMENTAL MARKETING CLAIM
5 UNDER THIS SECTION UNLESS THE PRODUCT OR PACKAGING IS:

6 (1) CONSIDERED RECYCLABLE UNDER § 9-2504 OF THIS SUBTITLE;
7 OR

8 (2) REQUIRED UNDER FEDERAL OR STATE LAW TO DISPLAY A
9 CHASING ARROWS SYMBOL, OTHER SYMBOL, OR STATEMENT INDICATING THE
10 PRODUCT OR PACKAGING IS RECYCLABLE OR DIRECTING THE CONSUMER TO
11 RECYCLE THE PRODUCT OR PACKAGING.

12 (D) IF A PRODUCT OR PACKAGING INCLUDES MULTIPLE TYPES OF
13 MATERIALS, A CHASING ARROWS SYMBOL OR STATEMENT INDICATING
14 RECYCLABILITY MAY BE DISPLAYED ON EXTERNAL PACKAGING CONSIDERED
15 RECYCLABLE UNDER § 9-2504 OF THIS SUBTITLE IF THE CHASING ARROWS SYMBOL
16 OR STATEMENT MAKES CLEAR IN THE SAME OR LARGER FONT SIZE OR SYMBOL SIZE
17 THAT THE OTHER COMPONENTS OF THE PRODUCT OR PACKAGING ARE NOT
18 RECYCLABLE.

19 (E) THE FOLLOWING ARE NOT UNTRUTHFUL, DECEPTIVE, OR MISLEADING
20 ENVIRONMENTAL MARKETING CLAIMS UNDER THIS SECTION:

21 (1) USING A CHASING ARROWS SYMBOL IN COMBINATION WITH A
22 CLEARLY VISIBLE LINE PLACED AT A 45-DEGREE ANGLE OVER THE CHASING
23 ARROWS SYMBOL TO CONVEY THAT A PRODUCT OR PACKAGING IS NOT RECYCLABLE;

24 (2) DISPLAYING A CHASING ARROWS SYMBOL ON A PRODUCT OR
25 PACKAGING IF REQUIRED UNDER STATE OR FEDERAL LAW OR REGULATION;

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

28 (4) A RESIN IDENTIFICATION CODE USED IN ACCORDANCE WITH §
29 9-1710 OF THIS TITLE.

30 9-2504.

31 (A) A PRODUCT OR PACKAGING IS CONSIDERED RECYCLABLE IN THE STATE
32 IF:

1 **(1) (I) THE PRODUCT OR PACKAGING IS OF A MATERIAL TYPE AND**
2 **FORM THAT IS:**

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

5 **2. SORTED FOR RECYCLING BY LARGE VOLUME**
6 **TRANSFER OR PROCESSING FACILITIES THAT PROCESS MATERIALS AND**
7 **COLLECTIVELY SERVE AT LEAST 60% OF RECYCLING PROGRAMS STATEWIDE;**

8 **(II) THE PRODUCT OR PACKAGING IS NOT MADE FROM PLASTIC**
9 **OR FIBER THAT CONTAINS PERFLUOROALKYL OR POLYFLUOROALKYL SUBSTANCES,**
10 **ALSO KNOWN AS PFAS, THAT:**

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

13 **B. HAVE A FUNCTIONAL OR TECHNICAL EFFECT ON THE**
14 **PRODUCT OR PACKAGING; OR**

15 **2. ARE AT OR ABOVE 100 PARTS PER MILLION, AS**
16 **MEASURED IN TOTAL ORGANIC FLUORINE;**

17 **(III) FOR PLASTIC PRODUCTS AND NONPLASTIC PRODUCTS AND**
18 **PACKAGING, THE PRODUCT OR PACKAGING IS DESIGNED TO ENSURE**
19 **RECYCLABILITY AND DOES NOT INCLUDE ANY COMPONENTS, INKS, ADHESIVES, OR**
20 **LABELS THAT PREVENT THE PRODUCT OR PACKAGING FROM BEING RECYCLED; AND**

21 **(IV) FOR PLASTIC PACKAGING, THE PLASTIC PACKAGING DOES**
22 **NOT INCLUDE ANY COMPONENTS, INKS, ADHESIVES, OR LABELS THAT WOULD,**
23 **UNDER THE ASSOCIATION OF PLASTIC RECYCLERS' APR DESIGN GUIDE, PREVENT**
24 **THE PACKAGING FROM BEING RECYCLED; OR**

25 **(2) ON AND AFTER JANUARY 1, 2024:**

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

30 **(II) THE DEPARTMENT DETERMINES THAT THE PRODUCT OR**
31 **PACKAGING WILL NOT INCREASE CONTAMINATION OF CURBSIDE RECYCLING OR**
32 **DECEIVE CONSUMERS AS TO THE RECYCLABILITY OF THE PRODUCT OR PACKAGING.**

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

5 **9-2505.**

6 **(A) THIS SUBTITLE MAY BE ENFORCED BY:**

7 **(1) THE DEPARTMENT;**

8 **(2) A UNIT OF LOCAL GOVERNMENT THAT HAS THE AUTHORITY TO**
9 **INSPECT RETAIL ESTABLISHMENTS; OR**

10 **(3) THE ATTORNEY GENERAL.**

11 **(B) THIS SECTION DOES NOT AFFECT THE AUTHORITY OF A COUNTY, A**
12 **MUNICIPALITY, OR ANY OTHER LOCAL GOVERNMENT TO ENACT OR ENFORCE**
13 **LEGISLATION, REGULATIONS, OR REQUIREMENTS FOR PRODUCTS OR PACKAGING.**

14 **(C) (1) A MANUFACTURER OR DISTRIBUTOR WHO VIOLATES THIS**
15 **SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE**
16 **NOT EXCEEDING \$50 PER VIOLATION.**

17 **(2) EACH DAY THAT A VIOLATION OCCURS IS A SEPARATE VIOLATION**
18 **UNDER THIS SUBTITLE.**

19 **9-2506.**

20 **THE DEPARTMENT SHALL:**

21 **(1) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE; AND**

22 **(2) PUBLISH THE REGULATIONS ON THE DEPARTMENT’S WEBSITE.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2023.