

HOUSE BILL 261

P2
SB 961/22 – B&T

3lr1277
CF SB 424

By: Delegates Kerr and Fair, Fair, Bagnall, Bhandari, Cullison, Guzzone, Hill, S. Johnson, Kaiser, R. Lewis, Lopez, Martinez, Pena-Melnyk, Rosenberg, Taveras, White, and Woods

Introduced and read first time: January 25, 2023
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 9, 2023

CHAPTER _____

1 AN ACT concerning

2 **Public Projects – ~~Global Warming Potential of Materials~~ Procurement of**
3 **Construction Materials**
4 **(Buy Clean Maryland Act)**

5 FOR the purpose of requiring producers of eligible materials to submit certain declarations
6 to the Department of General Services by a certain date; requiring the Department
7 to assess and ~~to~~ establish a maximum acceptable global warming potential for
8 certain categories of eligible materials used in certain eligible projects; requiring the
9 Department to review the maximum acceptable global warming potential for each
10 category of eligible materials and authorizing the Department to make certain
11 adjustments according to a certain schedule; prohibiting the Department from
12 increasing the maximum acceptable global warming potential for a category of
13 eligible materials; requiring a unit of State government to specify the eligible
14 materials that will be used in an eligible project in the solicitation for an eligible
15 project; requiring a successful bidder or offeror of an eligible project to submit certain
16 information about each eligible material proposed to be used in an eligible project;
17 prohibiting a contractor from installing any eligible materials on an eligible project
18 until the contractor submits the required information for the eligible material;
19 authorizing the Department to waive certain requirements concerning the use of
20 eligible materials on eligible projects under certain circumstances; providing that the
21 Department shall strive to achieve a continuous reduction of greenhouse gas
22 emissions over time; establishing an Environmental Product Declaration Assistance

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 Fund for a certain purpose; and generally relating to the global warming potential
2 of materials in public projects.

3 BY adding to

4 Article – State Finance and Procurement

5 Section 4–901 through 4–905 to be under the new subtitle “Subtitle 9. Buy Clean
6 Maryland Act”

7 Annotated Code of Maryland

8 (2021 Replacement Volume and 2022 Supplement)

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

11 **Article – State Finance and Procurement**

12 **SUBTITLE 9. BUY CLEAN MARYLAND ACT.**

13 **4–901.**

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

16 (B) “ELIGIBLE MATERIAL” MEANS ANY CEMENT OR CONCRETE MIXTURE
17 USED IN THE CONSTRUCTION OF A PUBLIC PROJECT.

18 (C) (1) “ELIGIBLE PROJECT” ~~MEANS A PUBLIC PROJECT AS DEFINED~~
19 INCLUDES A CAPITAL PROJECT DESCRIBED IN § ~~3–602~~ 3–602.1(C) OF THIS ARTICLE.

20 (2) “ELIGIBLE PROJECT” DOES NOT INCLUDE ANY MAINTENANCE
21 PROGRAM FOR THE UPKEEP OF A PUBLIC PROJECT.

22 (D) “GLOBAL WARMING POTENTIAL” MEANS THE DEGREE THAT A GIVEN
23 MASS OF A CHEMICAL CONTRIBUTES TO GLOBAL WARMING OVER A GIVEN TIME
24 PERIOD WHEN COMPARED TO THE SAME MASS OF CARBON DIOXIDE.

25 (E) “GREENHOUSE GAS” HAS THE MEANING STATED IN § 2–1202 OF THE
26 ENVIRONMENT ARTICLE.

27 **4–902.**

28 IN ADMINISTERING THIS SUBTITLE, THE DEPARTMENT SHALL STRIVE TO
29 ACHIEVE A CONTINUOUS REDUCTION OF GREENHOUSE GAS EMISSIONS OVER TIME.

30 **4–903.**

1 **(A) (1) ON OR BEFORE DECEMBER 31, 2024, PRODUCERS OF ELIGIBLE**
2 **MATERIALS SHALL SUBMIT ENVIRONMENTAL PRODUCT DECLARATIONS TO THE**
3 **DEPARTMENT.**

4 **(2) THE DEPARTMENT SHALL ANALYZE ENVIRONMENTAL PRODUCT**
5 **DECLARATIONS AND ASSESS GLOBAL WARMING POTENTIAL FOR ELIGIBLE**
6 **MATERIALS USED IN AN ELIGIBLE PROJECT IN ACCORDANCE WITH THIS SECTION.**

7 **(B) ON OR BEFORE JANUARY 1, ~~2025~~ 2026, THE DEPARTMENT SHALL**
8 **ESTABLISH A MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR EACH**
9 **CATEGORY OF ELIGIBLE MATERIALS USED IN AN ELIGIBLE PROJECT IN**
10 **ACCORDANCE WITH THIS SECTION.**

11 ~~(B)~~ **(C) THE DEPARTMENT SHALL:**

12 **(1) BASE THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL**
13 **ON THE INDUSTRY AVERAGE OF GLOBAL WARMING POTENTIAL EMISSIONS FOR THAT**
14 **MATERIAL;**

15 **(2) DETERMINE THE INDUSTRY AVERAGE OF GLOBAL WARMING**
16 **POTENTIAL EMISSIONS, WHICH MAY INCLUDE TRANSPORTATION-RELATED**
17 **EMISSIONS, BY CONSULTING NATIONALLY OR INTERNATIONALLY RECOGNIZED**
18 **DATABASES OF ENVIRONMENTAL PRODUCT DECLARATIONS; AND**

19 **(3) EXPRESS THE MAXIMUM ACCEPTABLE GLOBAL WARMING**
20 **POTENTIAL AS A NUMBER THAT STATES THE MAXIMUM ACCEPTABLE GLOBAL**
21 **WARMING POTENTIAL FOR EACH CATEGORY OF ELIGIBLE MATERIALS, CONSISTENT**
22 **WITH CRITERIA IN AN ENVIRONMENTAL PRODUCT DECLARATION.**

23 ~~(C)~~ **(D) THE DEPARTMENT MAY:**

24 **(1) ESTABLISH ADDITIONAL SUBCATEGORIES WITHIN EACH**
25 **CATEGORY OF ELIGIBLE MATERIAL WITH DISTINCT MAXIMUM ACCEPTABLE GLOBAL**
26 **WARMING POTENTIAL LIMITS;**

27 **(2) ESTABLISH A MAXIMUM ACCEPTABLE GLOBAL WARMING**
28 **POTENTIAL FOR EACH MATERIAL CATEGORY IN THE AGGREGATE; AND**

29 **(3) CONSULT WITH ANY OTHER RELEVANT UNIT OF STATE**
30 **GOVERNMENT WHEN ESTABLISHING A MAXIMUM ACCEPTABLE GLOBAL WARMING**
31 **POTENTIAL FOR EACH CATEGORY OF ELIGIBLE MATERIALS USED IN AN ELIGIBLE**
32 **PROJECT.**

1 ~~(D)~~ **(E)** **(1)** SUBJECT TO PARAGRAPH **(2)** OF THIS SUBSECTION, BY
2 **JANUARY 1, ~~2028~~ 2029**, AND EVERY 3 YEARS THEREAFTER, THE DEPARTMENT
3 SHALL REVIEW THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR
4 EACH CATEGORY OF ELIGIBLE MATERIALS AND MAY ADJUST THE POTENTIAL FOR
5 ANY CATEGORY TO REFLECT INDUSTRY CONDITIONS.

6 **(2)** THE DEPARTMENT MAY NOT ADJUST THE GLOBAL WARMING
7 POTENTIAL UPWARD FOR ANY CATEGORY OF ELIGIBLE MATERIAL.

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
9 as follows:

10 **Article – State Finance and Procurement**

11 **4–904.**

12 **(A)** **(1)** FOR ANY SOLICITATION FOR A CONTRACT FOR AN ELIGIBLE
13 PROJECT, A UNIT OF STATE GOVERNMENT SHALL SPECIFY THE ELIGIBLE
14 MATERIALS THAT WILL BE USED IN THE PROJECT AND THE REASONABLE MINIMUM
15 USAGE THRESHOLDS BELOW WHICH THE REQUIREMENTS OF THIS SECTION DO NOT
16 APPLY.

17 **(2)** A UNIT OF STATE GOVERNMENT MAY INCLUDE IN A SOLICITATION
18 FOR AN ELIGIBLE PROJECT A GLOBAL WARMING POTENTIAL FOR ANY ELIGIBLE
19 MATERIAL THAT IS LOWER THAN THE MAXIMUM ACCEPTABLE GLOBAL WARMING
20 POTENTIAL FOR THAT MATERIAL AS DETERMINED UNDER § 4–903 OF THIS
21 SUBTITLE.

22 **(B)** THE DEPARTMENT SHALL REQUIRE A SUCCESSFUL BIDDER OR
23 OFFEROR OF AN ELIGIBLE PROJECT TO SUBMIT, FOR EACH ELIGIBLE MATERIAL
24 PROPOSED TO BE USED IN THE ELIGIBLE PROJECT:

25 **(1)** A CURRENT ENVIRONMENTAL PRODUCT DECLARATION, TYPE III,
26 AS DEFINED BY THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION
27 STANDARD 14025; OR

28 **(2)** A SIMILARLY ROBUST LIFE CYCLE ASSESSMENT METHOD THAT
29 INCLUDES UNIFORM STANDARDS IN DATA COLLECTION.

30 **(C)** A CONTRACTOR MAY NOT INSTALL ANY ELIGIBLE MATERIALS ON THE
31 ELIGIBLE PROJECT UNTIL THE CONTRACTOR SUBMITS A FACILITY–SPECIFIC
32 ENVIRONMENTAL PRODUCT DECLARATION FOR THAT ELIGIBLE MATERIAL AS
33 REQUIRED UNDER SUBSECTION **(B)** OF THIS SECTION.

1 (D) IF AN ENVIRONMENTAL PRODUCT DECLARATION IS NOT AVAILABLE FOR
2 AN ELIGIBLE MATERIAL, THE CONTRACTOR SHALL NOTIFY THE UNIT AND USE AN
3 ALTERNATIVE ELIGIBLE MATERIAL WITH AN ENVIRONMENTAL PRODUCT
4 DECLARATION.

5 (E) THE DEPARTMENT MAY WAIVE THE REQUIREMENTS OF THIS SECTION
6 IF IT DETERMINES THAT REQUIRING THE RELEVANT ELIGIBLE MATERIALS WOULD:

7 (1) BE TECHNICALLY INFEASIBLE;

8 (2) RESULT IN A SIGNIFICANT INCREASE IN PROJECT COST;

9 (3) RESULT IN A SIGNIFICANT DELAY IN PROJECT COMPLETION; OR

10 (4) RESULT IN ONLY ONE SOURCE OR MANUFACTURER BEING ABLE
11 TO PROVIDE THE NECESSARY MATERIALS.

12 4-905.

13 (A) ON OR BEFORE DECEMBER 1, 2025, AND EACH YEAR THEREAFTER, THE
14 DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT, IN ACCORDANCE WITH § 2-1257
15 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY THAT
16 INCLUDES:

17 (1) WHAT THE DEPARTMENT HAS LEARNED ABOUT HOW TO IDENTIFY
18 AND QUANTIFY EMBODIED CARBON IN BUILDING MATERIALS, INCLUDING LIFE
19 CYCLE COSTS; AND

20 (2) ANY OBSTACLES THE DEPARTMENT, BIDDERS, OR OFFERORS
21 HAVE ENCOUNTERED IN IDENTIFYING AND QUANTIFYING EMBODIED CARBON IN
22 BUILDING MATERIALS.

23 (B) THE REPORT SUBMITTED ON OR BEFORE DECEMBER 1, 2025, SHALL
24 INCLUDE A DESCRIPTION OF THE METHOD THAT THE DEPARTMENT USED TO
25 DEVELOP THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR EACH
26 CATEGORY OF ELIGIBLE MATERIALS.

27 SECTION 3. AND BE IT FURTHER ENACTED, That:

28 (a) (1) There is an Environmental Product Declaration Assistance Fund.

29 (2) The purpose of the Fund is to award grants to producers of eligible
30 materials to support the development, standardization, and transparency of environmental
31 product declarations for construction materials and products.

1 **(b)** The Department of Commerce shall administer the Fund.

2 **(c)** The Fund shall consist of money appropriated in the State budget to the Fund.

3 **SECTION 4. AND BE IT FURTHER ENACTED, That:**

4 **(a)** The Maryland Green Building Council shall examine:

5 **(1)** the use of environmental product declarations to measure the climate
6 impact of construction materials produced by the State, including glass, steel, and wood;

7 **(2)** the use of performance incentives to encourage adoption of low-carbon
8 materials and methods by manufacturers that provide construction materials for
9 State-funded projects;

10 **(3)** the establishment of an expedited product evaluation, testing, and
11 approval protocol for low-carbon products;

12 **(4)** the implementation of performance-based specification standards for
13 construction materials, including requirements that a structural material achieve specified
14 performance-based outcomes from the use of structural material, including outcomes
15 related to strength, durability, permeability, or other attributes related to the function of
16 building material for applied uses; and

17 **(5)** the use of methods of compliance, including specifications based on
18 maximum potential for global warming.

19 **(b)** In examining the items under subsection (a) of this section, the Maryland
20 Green Building Council shall consult with:

21 **(1)** any relevant associations that set industry standards for the
22 procurement of low-carbon construction products; and

23 **(2)** affected contractors and subcontractors to consider both environmental
24 and health and safety impacts.

25 **(c)** On or before September 1, 2024, the Maryland Green Building Council shall
26 report its findings and recommendations to the Governor and, in accordance with § 2-1257
27 of the State Government Article, the General Assembly.

28 **SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall**
29 **take effect July 1, ~~2025~~ 2026.**

30 **SECTION 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take**
31 **effect July 1, 2023. It shall remain effective for a period of 1 year and 6 months and, at the**
32 **end of December 31, 2024, Section 3 of this Act shall be abrogated and of no further force**
33 **and effect.**

1 SECTION ~~4~~ 7. AND BE IT FURTHER ENACTED, That, except as provided in
2 ~~Section 3~~ Sections 5 and 6 of this Act, this Act shall take effect July 1, 2023.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.