

## Chapter 439

**(House Bill 264)**

AN ACT concerning

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

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

BY repealing and reenacting, without amendments,

Article – Environment

Section 9–201(a) and (e) and 9–1701(a), (b), (d), (n), (o), and (q)

Annotated Code of Maryland

(2014 Replacement Volume and 2020 Supplement)

BY adding to

Article – Environment

Section 9–1701(i–1) and (r–1) and 9–1724.1

Annotated Code of Maryland

(2014 Replacement Volume and 2020 Supplement)

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

**Article – Environment**

9–201.

- (a) In this subtitle the following words have the meanings indicated.
- (e) “Refuse disposal system” includes:
  - (1) An incinerator;
  - (2) A transfer station;
  - (3) A landfill system;
  - (4) A landfill;
  - (5) A solid waste processing facility; and
  - (6) Any other solid waste acceptance facility.

9–1701.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Anaerobic digestion” means the controlled anaerobic biological decomposition of organic waste material to produce biogas and digestate.
- (d) “Composting” means the controlled aerobic biological decomposition of organic waste material in accordance with the standards established by the Secretary under this title.

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

- (n) (1) “Organics recycling” means any process in which organic materials are collected, separated, or processed and returned to the marketplace in the form of raw materials or products.
  - (2) “Organics recycling” includes anaerobic digestion and composting.
- (o) “Organics recycling facility” means a facility where organics recycling takes place.

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

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

9-1724.1.

(A) IN THIS SECTION, "PERSON":

(1) INCLUDES:

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

(II) AN INDIVIDUAL PUBLIC PRIMARY OR SECONDARY SCHOOL;

(III) AN INDIVIDUAL NONPUBLIC SCHOOL;

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

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

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

(2) DOES NOT INCLUDE:

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

(II) A RESTAURANT ESTABLISHMENT THAT:

1. ACCOMMODATES THE PUBLIC; AND

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

~~3. HAS AVERAGE DAILY RECEIPTS FROM THE SALE OF FOOD THAT EXCEED THE AVERAGE DAILY RECEIPTS FROM THE SALE OF ALCOHOLIC BEVERAGES.~~

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

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

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

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

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

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

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

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

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

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

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

**(II) DONATING SERVABLE FOOD;**

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

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

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

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

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

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

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

(II) OTHER REASONABLE CIRCUMSTANCES.

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

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

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

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

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

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

(III) \$1000 FOR THE ~~THIRD~~ FOURTH AND EACH SUBSEQUENT VIOLATION.

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

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

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

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

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

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

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

- (i) the provisions of this Act; and
- (ii) the benefits of organics recycling; and

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

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

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

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

**Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.**