

Chapter 488

(House Bill 1147)

AN ACT concerning

Environment – Playground Surfacing Materials – Prohibitions

FOR the purpose of prohibiting, on or after a certain date, a person from ~~using~~ installing, supplying, selling, soliciting, or offering for sale playground surfacing materials that contain a certain concentration of lead or a component product, material, or substance to which PFAS chemicals were previously intentionally added for certain purposes ~~certain concentrations of certain chemicals for the construction or renovation of the ground surface of a playground in the State~~; prohibiting a county, municipality, or unit of local government from adopting any ordinance, rule, or regulation related to the use of certain playground surfacing materials that is less stringent than the requirements of this Act; requiring a certain manufacturer to establish and provide to the Department of the Environment a certain certificate of compliance under certain circumstances; and generally relating to playground surfacing materials.

BY adding to

Article – Environment

Section 6–16A–01 through 6–16A–05 to be under the new subtitle “Subtitle 16A. Playground Surfacing Materials”

Annotated Code of Maryland

(2013 Replacement Volume and 2023 Supplement)

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

Article – Environment**SUBTITLE 16A. PLAYGROUND SURFACING MATERIALS.****6–16A–01.**

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

~~(B) “PAH” MEANS POLYCYCLIC AROMATIC HYDROCARBONS.~~

~~(C)~~ (B) “PFAS CHEMICALS” MEANS A CLASS OF FLUORINATED ORGANIC CHEMICALS THAT CONTAIN AT LEAST ONE FULLY FLUORINATED CARBON ATOM, INCLUDING PER- AND POLYFLUOROALKYL SUBSTANCES.

~~(D)~~ (C) “PLAYGROUND” MEANS A PUBLIC OUTDOOR RECREATION AREA FOR CHILDREN EQUIPPED WITH ONE OR MORE PLAY STRUCTURES.

~~(E)~~ (D) “PLAYGROUND SURFACING MATERIALS” MEANS PRODUCTS, MATERIALS, OR SUBSTANCES USED OR INSTALLED ON THE GROUND SURFACE OF A PLAYGROUND IN THE STATE THAT COME INTO DIRECT CONTACT WITH A PERSON.

6-16A-02.

(A) EXCEPT AS PROVIDED IN THIS SECTION, THIS SUBTITLE DOES NOT LIMIT THE POWER OF A COUNTY, MUNICIPALITY, OR UNIT OF LOCAL GOVERNMENT TO ADOPT ORDINANCES, RULES, OR REGULATIONS RELATED TO PLAYGROUND SURFACING MATERIALS THAT CONTAIN ~~PAH, PFAS,~~ PFAS CHEMICALS OR LEAD.

(B) A COUNTY, MUNICIPALITY, OR UNIT OF LOCAL GOVERNMENT MAY NOT ADOPT ANY ORDINANCE, RULE, OR REGULATION RELATED TO PLAYGROUND SURFACING MATERIALS THAT CONTAIN ~~PAH, PFAS,~~ PFAS CHEMICALS OR LEAD THAT IS LESS STRINGENT THAN THE REQUIREMENTS OF THIS SUBTITLE.

(C) THIS SUBTITLE DOES NOT AFFECT THE AUTHORITY OF A COUNTY, MUNICIPALITY, OR UNIT OF LOCAL GOVERNMENT TO ENACT AND ENFORCE STANDARDS OR REQUIREMENTS RELATED TO PLAYGROUND SURFACING MATERIALS THAT CONTAIN ~~PAH, PFAS,~~ PFAS CHEMICALS OR LEAD THAT ARE MORE STRINGENT THAN THE REQUIREMENTS OF THIS SUBTITLE.

6-16A-03.

(A) ON OR AFTER OCTOBER 1, 2024, A PERSON MAY NOT ~~USE~~ INSTALL, SUPPLY, SELL, SOLICIT, OR OFFER FOR SALE IN THE STATE PLAYGROUND SURFACING MATERIALS THAT CONTAIN:

(1) MORE THAN 90 PARTS PER MILLION OF LEAD; OR

(2) A COMPONENT PRODUCT, MATERIAL, OR SUBSTANCE TO WHICH PFAS CHEMICALS WERE PREVIOUSLY INTENTIONALLY ADDED IN THE FORMATION OF THAT COMPONENT WHERE THE CONTINUED PRESENCE OF THE PFAS CHEMICALS WAS DESIRED IN THE COMPONENT TO PROVIDE A SPECIFIC CHARACTERISTIC.

~~(2) FLUORINATED ORGANIC CHEMICALS THAT CONTAIN AT LEAST 1 FULLY FLUORINATED CARBON ATOM, INCLUDING PFAS SUBSTANCES; AND~~

~~(3) MORE THAN 20 MILLIGRAMS PER KILOGRAM OF PAH.~~

(B) A MANUFACTURER THAT MANUFACTURES, SELLS, OFFERS FOR SALE, OR DISTRIBUTES FOR USE IN THE STATE PLAYGROUND SURFACING MATERIALS SHALL ESTABLISH A CERTIFICATE OF COMPLIANCE TO ATTEST THAT THE PLAYGROUND SURFACING MATERIALS ARE IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE.

(C) ON REQUEST OF THE DEPARTMENT AND WITHIN 30 DAYS AFTER THE REQUEST IS MADE, A MANUFACTURER SHALL PROVIDE THE CERTIFICATE OF COMPLIANCE ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION TO THE DEPARTMENT.

6-16A-04.

THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

6-16A-05.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE PROVISIONS OF §§ 9-334 THROUGH 9-341 AND 9-343 THROUGH 9-344 OF THIS ARTICLE APPLY TO ENFORCE VIOLATIONS OF:

- (1) THIS SUBTITLE;
- (2) ANY REGULATION ADOPTED UNDER THIS SUBTITLE; OR
- (3) ANY ORDER ISSUED UNDER THIS SUBTITLE.

(B) A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO:

- (1) A CIVIL PENALTY UP TO \$2,500 FOR EACH VIOLATION; OR
- (2) AN ADMINISTRATIVE PENALTY UP TO \$2,500 FOR EACH VIOLATION, BUT NOT EXCEEDING \$100,000 TOTAL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any contract awarded for the installation, supply, sale, solicitation, or offer for sale of playground surfacing materials before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.

Approved by the Governor, May 9, 2024.