

HOUSE BILL 342

M3
HB 1239/22 – ENT & ECM

3lr1113

By: **Delegates Terrasa, Love, Charkoudian, Ebersole, Embry, Fair, Feldmark, Foley, Fraser-Hidalgo, Grossman, Healey, Hill, Lehman, McCaskill, Moon, Palakovich Carr, Ruth, Shetty, Solomon, Stein, Taveras, Vogel, and Wu**

Introduced and read first time: January 25, 2023

Assigned to: Environment and Transportation and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Plastic Products – Postconsumer Recycled Content Program**

3 FOR the purpose of prohibiting certain producers of certain plastic products from selling,
4 offering for sale, or distributing the products to any person in the State unless certain
5 conditions are met; requiring certain producers of certain plastic products to,
6 individually or as part of a representative organization, register and pay a certain
7 fee annually to the Department of the Environment; establishing certain minimum
8 postconsumer recycled content percentage requirements for certain plastic beverage
9 containers and rigid plastic containers; authorizing the Department to grant a
10 certain waiver under certain circumstances; authorizing the Department to conduct
11 certain audits and investigations and to participate in a certain multistate
12 clearinghouse; requiring the Department to publish on its website certain
13 information; and generally relating to plastic products and postconsumer recycled
14 content.

15 BY repealing and reenacting, without amendments,
16 Article – Environment
17 Section 9–1702(a)
18 Annotated Code of Maryland
19 (2014 Replacement Volume and 2022 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Environment
22 Section 9–1702(d) and 9–1707(f)
23 Annotated Code of Maryland
24 (2014 Replacement Volume and 2022 Supplement)

25 BY adding to
26 Article – Environment

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 9–2501 through 9–2510 to be under the new subtitle “Subtitle 25.
2 Postconsumer Recycled Content Program”
3 Annotated Code of Maryland
4 (2014 Replacement Volume and 2022 Supplement)

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

7 **Article – Environment**

8 9–1702.

9 (a) There is an Office of Recycling created within the Department.

10 (d) The Office shall:

11 (1) Assist the counties in developing an acceptable recycling plan required
12 under § 9–1703 of this subtitle and § 9–505 of this title, including technical assistance to
13 the local governments;

14 (2) Coordinate the efforts of the State to facilitate the implementation of
15 the recycling goals at the county level;

16 (3) Review all recycling plans submitted as part of a county plan as
17 required under § 9–505 of this title and advise the Secretary on the adequacy of the
18 recycling plan;

19 (4) Administer the Statewide Electronics Recycling Program under Part IV
20 of this subtitle; [and]

21 **(5) ADMINISTER THE POSTCONSUMER RECYCLED CONTENT**
22 **PROGRAM UNDER SUBTITLE 25 OF THIS TITLE; AND**

23 ~~[(5)]~~ **(6)** Promote the development of markets for recycled materials and
24 recycled products in the State in accordance with § 9–1702.1 of this subtitle.

25 9–1707.

26 (f) (1) There is a State Recycling Trust Fund.

27 (2) The Fund shall consist of:

28 (i) The newspaper recycling incentive fee;

29 (ii) The telephone directory recycling incentive fee collected under §
30 9–1709 of this subtitle;

1 (iii) The covered electronic device manufacturer registration fee
2 collected under § 9-1728 of this subtitle;

3 (IV) **THE POSTCONSUMER RECYCLED CONTENT REGISTRATION**
4 **FEES COLLECTED UNDER § 9-2503 OF THIS TITLE;**

5 [(iv)] (V) All fines and penalties collected under this subtitle **AND §**
6 **9-2510 OF THIS TITLE;**

7 [(v)] (VI) Money appropriated in the State budget to the Fund; and

8 [(vi)] (VII) Any other money from any other source accepted for the
9 benefit of the Fund.

10 (3) The Secretary shall administer the Fund.

11 (4) The Treasurer shall hold the Fund separately and the Comptroller shall
12 account for the Fund.

13 (5) At the end of each fiscal year, any unspent or unencumbered balance in
14 the Fund that exceeds \$2,000,000 shall revert to the General Fund of the State in
15 accordance with § 7-302 of the State Finance and Procurement Article.

16 (6) In accordance with the State budget, the Fund shall be used only:

17 (i) To provide grants to the counties to be used by the counties to
18 develop and implement local recycling plans;

19 (ii) To provide grants to counties that have addressed methods for
20 the separate collection and recycling of covered electronic devices in accordance with §
21 9-1703(c)(1) of this subtitle;

22 (iii) To provide grants to municipalities to be used by the
23 municipalities to implement local covered electronic device recycling programs; [and]

24 (IV) **TO COVER THE COSTS OF PLANNING, IMPLEMENTING,**
25 **ADMINISTERING, MONITORING, ENFORCING, AND EVALUATING THE**
26 **POSTCONSUMER RECYCLED CONTENT PROGRAM ESTABLISHED UNDER SUBTITLE**
27 **25 OF THIS TITLE; AND**

28 [(iv)] (V) To carry out the purposes of the land management
29 administration.

30 (7) (I) **THERE SHALL BE A SEPARATE ACCOUNT WITHIN THE FUND.**

(II) THE SEPARATE ACCOUNT SHALL CONSIST OF:

1. ANY FEES COLLECTED FROM PRODUCERS OF COVERED PRODUCTS UNDER § 9-2503 OF THIS TITLE; AND

2. ALL FINES AND PENALTIES COLLECTED UNDER § 9-2510 OF THIS TITLE.

(III) THE SEPARATE ACCOUNT SHALL BE USED ONLY TO COVER THE COSTS OF PLANNING, IMPLEMENTING, ADMINISTERING, MONITORING, ENFORCING, AND EVALUATING THE POSTCONSUMER RECYCLED CONTENT PROGRAM ESTABLISHED UNDER SUBTITLE 25 OF THIS TITLE.

[(7)] (8) (i) The Treasurer shall invest the money in the Fund in the same manner as other State money may be invested.

(ii) Any investment earnings of the Fund shall be credited to the General Fund of the State.

SUBTITLE 25. POSTCONSUMER RECYCLED CONTENT PROGRAM.

9-2501.

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

(B) "COVERED PRODUCT" MEANS A PRODUCT THAT IS SUBJECT TO THE POSTCONSUMER RECYCLED CONTENT PERCENTAGE REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE.

(C) "POSTCONSUMER RECYCLED CONTENT" MEANS A MATERIAL OR PRODUCT THAT HAS:

(1) COMPLETED ITS INTENDED END USE AND PRODUCT LIFE CYCLE FROM HOUSEHOLDS OR BY COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL FACILITIES; AND

(2) BEEN SEPARATED FROM THE SOLID WASTE STREAM FOR THE PURPOSES OF COLLECTION AND RECYCLING.

(D) (1) "PRODUCER" MEANS A PERSON RESPONSIBLE FOR COMPLYING WITH THE REQUIREMENTS UNDER THIS SUBTITLE.

1 **(2) “PRODUCER” INCLUDES A FRANCHISOR OF A FRANCHISE**
2 **LOCATED IN THE STATE.**

3 **(3) “PRODUCER” DOES NOT INCLUDE:**

4 **(I) THE STATE, A COUNTY, A MUNICIPALITY, OR ANY OTHER**
5 **POLITICAL SUBDIVISION OF THE STATE;**

6 **(II) A CHARITABLE ORGANIZATION THAT IS TAX EXEMPT UNDER**
7 **§ 501(C)(3) OF THE INTERNAL REVENUE CODE;**

8 **(III) A SOCIAL WELFARE ORGANIZATION THAT IS TAX EXEMPT**
9 **UNDER § 501(C)(4) OF THE INTERNAL REVENUE CODE;**

10 **(IV) A FRANCHISEE THAT OPERATES A FRANCHISE IN THE**
11 **STATE;**

12 **(V) A PERSON THAT ANNUALLY SELLS, OFFERS FOR SALE,**
13 **DISTRIBUTES, OR IMPORTS INTO THE COUNTRY FOR SALE IN THE STATE FEWER**
14 **THAN 1,000 UNITS OF A SINGLE CATEGORY OF COVERED PRODUCTS; OR**

15 **(VI) A PERSON THAT ANNUALLY SELLS, OFFERS FOR SALE, OR**
16 **DISTRIBUTES IN THE STATE A SINGLE CATEGORY OF A COVERED PRODUCT THAT IN**
17 **AGGREGATE GENERATES LESS THAN \$5,000,000 EACH YEAR IN GLOBAL REVENUE.**

18 **(E) “PROGRAM” MEANS THE POSTCONSUMER RECYCLING CONTENT**
19 **PROGRAM.**

20 **(F) (1) “RECYCLED CONTENT” MEANS THE PORTION OF A COVERED**
21 **PRODUCT’S TOTAL WEIGHT THAT IS COMPOSED OF POSTCONSUMER RECYCLED**
22 **MATERIAL, AS DETERMINED BY A MATERIAL BALANCE APPROACH THAT**
23 **CALCULATES TOTAL POSTCONSUMER RECYCLED MATERIAL AS A PERCENTAGE OF**
24 **THE TOTAL WEIGHT OF THE COVERED PRODUCT.**

25 **(2) “RECYCLED CONTENT” DOES NOT INCLUDE PRE- CONSUMER OR**
26 **POSTINDUSTRIAL SECONDARY WASTE MATERIAL OR MATERIALS AND BY-**
27 **PRODUCTS GENERATED FROM, AND COMMONLY USED WITHIN, AN ORIGINAL**
28 **MANUFACTURING AND FABRICATION PROCESS.**

29 **9-2502.**

1 (A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION
2 APPLIES TO A PRODUCER THAT SELLS, OFFERS FOR SALE, OR DISTRIBUTES A
3 COVERED PRODUCT IN THE STATE.

4 (2) (I) IF THE COVERED PRODUCT IS SOLD UNDER THE
5 PRODUCER'S OWN BRAND OR LACKS IDENTIFICATION OF A BRAND, THE PRODUCER
6 IS THE PERSON WHO MANUFACTURES THE COVERED PRODUCT.

7 (II) IF THE COVERED PRODUCT IS MANUFACTURED BY A
8 PERSON OTHER THAN THE BRAND OWNER, THE PRODUCER IS THE PERSON WHO IS
9 THE LICENSEE OF A BRAND OR TRADEMARK UNDER WHICH A COVERED PRODUCT IS
10 SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN THE STATE, WHETHER OR NOT THE
11 TRADEMARK IS REGISTERED IN THE STATE.

12 (III) IF THERE IS NO PERSON DESCRIBED IN SUBPARAGRAPH (I)
13 OR (II) OF THIS PARAGRAPH OVER WHOM THE STATE CAN CONSTITUTIONALLY
14 EXERCISE JURISDICTION, THE PRODUCER IS THE PERSON WHO IMPORTS OR
15 DISTRIBUTES THE COVERED PRODUCT IN THE STATE.

16 (B) A PRODUCER MAY NOT SELL, OFFER FOR SALE, OR DISTRIBUTE A
17 COVERED PRODUCT TO ANY PERSON IN THE STATE UNLESS:

18 (1) THE PRODUCT MEETS THE MINIMUM POSTCONSUMER RECYCLED
19 CONTENT PERCENTAGE REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE; AND

20 (2) IN ACCORDANCE WITH § 9-2503 OF THIS SUBTITLE, THE
21 PRODUCER HAS, INDIVIDUALLY OR AS PART OF A REPRESENTATIVE ORGANIZATION:

22 (I) REGISTERED WITH THE DEPARTMENT; AND

23 (II) SUBMITTED A REGISTRATION FEE TO THE DEPARTMENT.

24 **9-2503.**

25 (A) (1) ON OR BEFORE MARCH 1 EACH YEAR, BEGINNING IN 2024, A
26 PRODUCER SHALL, INDIVIDUALLY OR AS PART OF A REPRESENTATIVE
27 ORGANIZATION:

28 (I) REGISTER WITH THE DEPARTMENT; AND

29 (II) PAY THE REGISTRATION FEE ESTABLISHED BY THE
30 DEPARTMENT UNDER PARAGRAPH (2) OF THIS SUBSECTION.

1 **(2) (I) THE DEPARTMENT SHALL ESTABLISH AN ANNUAL**
2 **REGISTRATION FEE FOR EACH CATEGORY OF A COVERED PRODUCT.**

3 **(II) REGISTRATION FEES SHALL BE SET IN A MANNER THAT:**

4 **1. WILL PRODUCE FUNDS SUFFICIENT TO COVER THE**
5 **DEPARTMENT'S ESTIMATED COSTS OF PLANNING, IMPLEMENTING,**
6 **ADMINISTERING, MONITORING, ENFORCING, AND EVALUATING THE PROGRAM FOR**
7 **THE UPCOMING 1-YEAR PERIOD; AND**

8 **2. IS PROPORTIONAL TO THE PRODUCER'S SHARE OF**
9 **THE TOTAL POUNDS OF PLASTIC SOLD IN THE STATE IN EACH PRODUCT CATEGORY**
10 **FOR THE IMMEDIATELY PRECEDING YEAR.**

11 **(3) IF, IN ANY GIVEN YEAR, THE AMOUNT OF REGISTRATION FEE**
12 **REVENUE COLLECTED BY THE DEPARTMENT EXCEEDS THE DEPARTMENT'S ACTUAL**
13 **COSTS OF PLANNING, IMPLEMENTING, ADMINISTERING, MONITORING, ENFORCING,**
14 **AND EVALUATING THE PROGRAM, THE DEPARTMENT SHALL CARRY THE EXCESS**
15 **AMOUNT FORWARD FOR THE PURPOSE OF REDUCING REGISTRATION FEES FOR THE**
16 **FOLLOWING YEAR.**

17 **(4) IF, IN ANY GIVEN YEAR, THE AMOUNT OF REGISTRATION FEE**
18 **REVENUE COLLECTED BY THE DEPARTMENT IS INSUFFICIENT TO COVER THE**
19 **DEPARTMENT'S ACTUAL COSTS OF PLANNING, IMPLEMENTING, ADMINISTERING,**
20 **MONITORING, ENFORCING, AND EVALUATING THE PROGRAM, THE DEPARTMENT**
21 **SHALL ADJUST REGISTRATION FEES FOR THE FOLLOWING YEAR TO COVER THE**
22 **DEPARTMENT'S ACTUAL COSTS.**

23 **(B) THE REGISTRATION SHALL INCLUDE INFORMATION REGARDING:**

24 **(1) EACH PRODUCER INCLUDED UNDER THE REGISTRATION;**

25 **(2) EACH BRAND OF A COVERED PRODUCT INCLUDED UNDER THE**
26 **REGISTRATION;**

27 **(3) THE TOTAL NUMBER OF COVERED PRODUCTS SOLD IN THE STATE**
28 **IN THE IMMEDIATELY PRECEDING CALENDAR YEAR, INCLUDING THE TOTAL**
29 **NUMBER BY EACH CATEGORY OF A COVERED PRODUCT;**

30 **(4) THE AVERAGE PERCENTAGE OF POSTCONSUMER RECYCLED**
31 **CONTENT FOR EACH CATEGORY OF A COVERED PRODUCT SOLD IN THE STATE IN THE**
32 **IMMEDIATELY PRECEDING CALENDAR YEAR;**

1 **(5) PROOF OF THIRD-PARTY CERTIFICATION IN ACCORDANCE WITH**
2 **SUBSECTION (C) OF THIS SECTION; AND**

3 **(6) ANY ADDITIONAL INFORMATION REQUIRED BY THE DEPARTMENT**
4 **IN REGULATION.**

5 **(C) ON OR BEFORE MARCH 1 EACH YEAR, BEGINNING IN 2026, A PRODUCER**
6 **SHALL INCLUDE PROOF OF THIRD-PARTY CERTIFICATION OF THE POSTCONSUMER**
7 **RECYCLED CONTENT OF EACH COVERED PRODUCT INCLUDED IN THE**
8 **REGISTRATION IN A MANNER REQUIRED BY THE DEPARTMENT.**

9 **(D) ANY SALES DATA SUBMITTED TO THE DEPARTMENT TO COMPLY WITH**
10 **THE REQUIREMENTS OF THIS SECTION SHALL BE TREATED AS CONFIDENTIAL AND**
11 **PROPRIETARY, AND MAY NOT BE DISCLOSED EXCEPT AS OTHERWISE REQUIRED BY**
12 **LAW.**

13 **9-2504.**

14 **(A) (1) THIS SECTION APPLIES TO BEVERAGE CONTAINERS THAT ARE**
15 **MADE FROM PLASTIC AND INTENDED TO CONTAIN BEVERAGES UP TO 2 GALLONS IN**
16 **CAPACITY, INCLUDING AN INDIVIDUAL, SEALABLE, SEPARATE BOTTLE, CAN, JAR,**
17 **CARTON, OR OTHER BEVERAGE CONTAINER.**

18 **(2) THIS SECTION DOES NOT APPLY TO:**

19 **(I) REFILLABLE BEVERAGE CONTAINERS, INCLUDING**
20 **CONTAINERS THAT ARE SUFFICIENTLY DURABLE FOR MULTIPLE ROTATIONS OF**
21 **THEIR ORIGINAL PURPOSE OR A SIMILAR PURPOSE AND ARE INTENDED TO**
22 **FUNCTION IN A SYSTEM OF REUSE;**

23 **(II) LINERS, BLADDERS, CAPS, CORKS, CLOSURES, LABELS, AND**
24 **OTHER ITEMS ADDED TO THE BOTTLE OR CONTAINER BUT THAT ARE SEPARATE**
25 **FROM THE STRUCTURE OF THE BOTTLE OR CONTAINER;**

26 **(III) CONTAINERS CERTIFIED BY THE BIODEGRADABLE**
27 **PRODUCTS INSTITUTE AS COMPOSTABLE; AND**

28 **(IV) CONTAINERS USED FOR INFANT FORMULA, MEDICAL**
29 **BEVERAGES, OR FORTIFIED ORAL NUTRITIONAL SUPPLEMENTS.**

30 **(B) THE MINIMUM POSTCONSUMER RECYCLED CONTENT PERCENTAGE**
31 **REQUIREMENT FOR PLASTIC BEVERAGE CONTAINERS IS:**

1 (1) FROM JANUARY 1, 2025, TO DECEMBER 31, 2027, BOTH
2 INCLUSIVE, 15%;

3 (2) FROM JANUARY 1, 2028, TO DECEMBER 31, 2032, BOTH
4 INCLUSIVE, 25%; AND

5 (3) ON AND AFTER JANUARY 1, 2033, 50%.

6 9-2505.

7 (A) (1) THIS SECTION APPLIES TO RIGID PLASTIC CONTAINERS OR OTHER
8 NONDURABLE CONTAINERS THAT ARE MADE FROM PLASTIC AND ARE USED TO
9 PACKAGE OR STORE FOOD.

10 (2) THIS SECTION DOES NOT APPLY TO:

11 (I) REFILLABLE RIGID PLASTIC FOOD CONTAINERS,
12 INCLUDING CONTAINERS THAT ARE SUFFICIENTLY DURABLE FOR MULTIPLE
13 ROTATIONS OF THEIR ORIGINAL PURPOSE OR A SIMILAR PURPOSE AND ARE
14 INTENDED TO FUNCTION IN A SYSTEM OF REUSE; OR

15 (II) RIGID PLASTIC CONTAINERS THAT CONTAIN DIETARY
16 SUPPLEMENTS.

17 (B) THE MINIMUM POSTCONSUMER RECYCLED CONTENT PERCENTAGE
18 REQUIREMENT FOR RIGID PLASTIC CONTAINERS USED TO PACKAGE OR STORE FOOD
19 IS:

20 (1) FROM JANUARY 1, 2027, TO DECEMBER 31, 2029, BOTH
21 INCLUSIVE, 15%;

22 (2) FROM JANUARY 1, 2030, TO DECEMBER 31, 2032, BOTH
23 INCLUSIVE, 30%; AND

24 (3) ON AND AFTER JANUARY 1, 2033, 40%.

25 9-2506.

26 (A) (1) THIS SECTION APPLIES TO RIGID PLASTIC CONTAINERS OR OTHER
27 NONDURABLE CONTAINERS THAT ARE MADE FROM PLASTIC AND ARE USED FOR
28 HOUSEHOLD CLEANING PRODUCTS OR PERSONAL CARE PRODUCTS.

29 (2) THIS SECTION DOES NOT APPLY TO:

1 (I) REFILLABLE HOUSEHOLD CLEANING AND PERSONAL CARE
2 PRODUCT CONTAINERS, INCLUDING CONTAINERS THAT ARE SUFFICIENTLY
3 DURABLE FOR MULTIPLE ROTATIONS OF THEIR ORIGINAL PURPOSE OR A SIMILAR
4 PURPOSE AND ARE INTENDED TO FUNCTION IN A SYSTEM OF REUSE; AND

5 (II) RIGID PLASTIC CONTAINERS THAT ARE MEDICAL DEVICES
6 OR THAT ARE USED FOR:

7 1. MEDICAL PRODUCTS THAT ARE REQUIRED TO BE
8 STERILE; OR

9 2. NONPRESCRIPTION OR PRESCRIPTION DRUGS.

10 (B) THE MINIMUM POSTCONSUMER RECYCLED CONTENT PERCENTAGE
11 REQUIREMENT FOR RIGID PLASTIC CONTAINERS IS:

12 (1) FROM JANUARY 1, 2027, TO DECEMBER 31, 2030, BOTH
13 INCLUSIVE, 25%;

14 (2) FROM JANUARY 1, 2031, TO DECEMBER 31, 2034, BOTH
15 INCLUSIVE, 30%;

16 (3) FROM JANUARY 1, 2035, TO DECEMBER 31, 2038, BOTH
17 INCLUSIVE, 35%; AND

18 (4) ON AND AFTER JANUARY 1, 2039, 40%.

19 9-2507.

20 THE DEPARTMENT MAY GRANT A TEMPORARY WAIVER FROM THE
21 REQUIREMENTS UNDER THIS SUBTITLE TO A PRODUCER IF THE DEPARTMENT
22 DETERMINES THAT ACHIEVING COMPLIANCE UNDER THIS SUBTITLE WOULD
23 PRESENT AN UNDUE HARDSHIP OR A PRACTICAL DIFFICULTY NOT GENERALLY
24 APPLICABLE TO OTHER PRODUCERS IN SIMILAR CIRCUMSTANCES.

25 9-2508.

26 (A) THE DEPARTMENT MAY:

27 (1) CONDUCT AUDITS AND INVESTIGATIONS FOR THE PURPOSE OF
28 ENSURING COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE; AND

1 **(2) PARTICIPATE IN THE ESTABLISHMENT AND IMPLEMENTATION OF**
2 **A MULTISTATE CLEARINGHOUSE TO ASSIST IN CARRYING OUT THE REQUIREMENTS**
3 **OF THIS SUBTITLE, INCLUDING TO:**

4 **(I) HELP COORDINATE THE REVIEW OF REGISTRATIONS,**
5 **WAIVER REQUESTS, AND CERTIFICATIONS; AND**

6 **(II) IMPLEMENT EDUCATION AND OUTREACH ACTIVITIES.**

7 **(B) ON AN ANNUAL BASIS, THE DEPARTMENT SHALL PUBLISH ON ITS**
8 **WEBSITE:**

9 **(1) A LIST OF EACH REGISTERED PRODUCER OF A COVERED**
10 **PRODUCT AND ASSOCIATED BRAND NAMES;**

11 **(2) THE COMPLIANCE STATUS FOR EACH REGISTERED PRODUCER;**
12 **AND**

13 **(3) ANY OTHER INFORMATION DEEMED APPROPRIATE BY THE**
14 **DEPARTMENT.**

15 **9-2509.**

16 **THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS**
17 **SUBTITLE.**

18 **9-2510.**

19 **(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE**
20 **PROVISIONS OF §§ 9-334 THROUGH 9-342 OF THIS TITLE APPLY TO ENFORCE**
21 **VIOLATIONS OF THIS SUBTITLE.**

22 **(2) A PENALTY MAY NOT BE IMPOSED ON A PRODUCER UNDER THIS**
23 **SECTION FOR FAILING TO REGISTER WITH THE DEPARTMENT UNDER § 9-2503 OF**
24 **THIS SUBTITLE UNLESS:**

25 **(I) THE DEPARTMENT FIRST ISSUES A WRITTEN NOTICE OF**
26 **VIOLATION TO THE PRODUCER; AND**

27 **(II) THE PRODUCER HAS NOT REGISTERED WITH THE**
28 **DEPARTMENT WITHIN 90 DAYS OF RECEIPT OF THE WRITTEN NOTICE.**

1 **(B) (1) BEGINNING JANUARY 1, 2025, A PRODUCER THAT DOES NOT**
2 **MEET THE MINIMUM POSTCONSUMER RECYCLED CONTENT PERCENTAGE**
3 **REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE IS SUBJECT TO AN**
4 **ADMINISTRATIVE PENALTY EACH YEAR THE VIOLATION OCCURS.**

5 **(2) AN ADMINISTRATIVE PENALTY IMPOSED UNDER THIS**
6 **SUBSECTION SHALL EQUAL THE PRODUCT OF MULTIPLYING:**

7 **(I) THE TOTAL POUNDS OF PLASTIC USED IN THE PRODUCT**
8 **CATEGORY MULTIPLIED BY THE RELEVANT MINIMUM POSTCONSUMER RECYCLED**
9 **CONTENT PERCENTAGE, LESS THE TOTAL POUNDS OF POSTCONSUMER RECYCLING**
10 **PLASTIC USED; AND**

11 **(II) 20 CENTS.**

12 **(3) THE DEPARTMENT MAY ADJUST THE ADMINISTRATIVE PENALTY**
13 **AMOUNT IMPOSED UNDER THIS SUBSECTION AS NECESSARY TO ENSURE THAT THE**
14 **ADMINISTRATIVE PENALTY EXCEEDS THE COST OF COMPLIANCE.**

15 SECTION 2. AND BE IT FURTHER ENACTED, That:

16 (a) The Department of the Environment shall contract with a research university
17 or an independent third-party consultant to:

18 (1) evaluate the implementation of this Act and its effectiveness in
19 stimulating the recycling markets in the State and displacing virgin plastic with
20 postconsumer recycled content; and

21 (2) make recommendations for legislative or administrative actions, if any,
22 necessary to further the purpose of this Act.

23 (b) On or before October 1, 2028, the Department shall:

24 (1) report the findings and recommendations of the research university or
25 independent third-party consultant to the Governor, and, in accordance with § 2-1257 of
26 the State Government Article, the Senate Education, Energy, and the Environment
27 Committee and the House Environment and Transportation Committee; and

28 (2) post the findings and recommendations on the Department's website.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2023.