

SENATE BILL 262

M3, M4
HB 184/22 – ENT

3lr1388
CF HB 253

By: **Senators Gallion, Hester, and Carozza**

Introduced and read first time: January 25, 2023

Assigned to: Education, Energy, and the Environment

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 7, 2023

CHAPTER _____

1 AN ACT concerning

2 **Environment – On–Farm Composting Facilities – Permit Exemption**

3 FOR the purpose of requiring the Department of the Environment to adopt regulations to
4 exempt an on–farm composting facility from a certain requirement to obtain a permit
5 if the on–farm composting facility meets certain conditions; requiring the
6 Department to require the operator of a farm to provide certain notice under certain
7 circumstances; and generally relating to on–farm composting facilities.

8 BY repealing and reenacting, without amendments,
9 Article – Environment
10 Section 9–1701(a) and (v)
11 Annotated Code of Maryland
12 (2014 Replacement Volume and 2022 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Environment
15 Section 9–1725
16 Annotated Code of Maryland
17 (2014 Replacement Volume and 2022 Supplement)

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

20 **Article – Environment**

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 9-1701.

2 (a) In this subtitle the following words have the meanings indicated.

3 (v) (1) "Yard waste" means organic plant waste derived from gardening,
4 landscaping, and tree trimming activities.

5 (2) "Yard waste" includes leaves, garden waste, lawn cuttings, weeds, and
6 prunings.

7 9-1725.

8 (a) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
9 **INDICATED.**

10 **(2) (I) "ACTIVE FOOD SCRAP COMPOSTING" MEANS**
11 **SOURCE-SEPARATED ORGANIC MATERIAL BROUGHT ONTO THE FARM AND**
12 **COMMINGLED MATERIAL IN THE PROCESS OF BEING COMPOSTED.**

13 **(II) "ACTIVE FOOD SCRAP COMPOSTING" DOES NOT INCLUDE**
14 **ANY FINAL SOIL AMENDMENT PRODUCED.**

15 ~~(2)~~ **(3) "CONTAMINATED FEEDSTOCK" MEANS FEEDSTOCK THAT**
16 **CONTAINS MORE THAN 2% BY DRY WEIGHT OF:**

17 **(I) MAN-MADE INERT MATERIAL; OR**

18 **(II) FILM PLASTIC.**

19 ~~(3)~~ **(4) (I) "FARM" MEANS THE SITE OF A BUSINESS OR ACTIVITY**
20 **OPERATED FOR THE PRIMARY PURPOSE OF TILLING, CROPPING, KEEPING,**
21 **PASTURING, OR PRODUCING AN AGRICULTURAL PRODUCT OTHER THAN COMPOST,**
22 **INCLUDING LIVESTOCK, POULTRY, PLANTS, TREES, SOD, FOOD, FEED, OR FIBER, BY**
23 **IN-GROUND, OUT-OF-GROUND, CONTAINER, OR OTHER CULTURE.**

24 **(II) "FARM" DOES NOT INCLUDE THE SITE OF A BUSINESS OR**
25 **ACTIVITY OPERATED FOR THE PRIMARY PURPOSE OF PRODUCING COMPOST.**

26 ~~(4)~~ **(5) (I) "LIQUID FEEDSTOCK" MEANS GREASE, OIL, OR SOME**
27 **OTHER LIQUID.**

28 **(II) "LIQUID FEEDSTOCK" DOES NOT INCLUDE FOOD SCRAPS**
29 **THAT CONTAIN SOME LIQUID.**

1 ~~(5)~~ **(6)** **(I)** “OFF-SITE TYPE 2 FEEDSTOCK” MEANS TYPE 2
2 FEEDSTOCK THAT IS GENERATED OFF-SITE.

3 **(II)** “OFF-SITE TYPE 2 FEEDSTOCK” DOES NOT INCLUDE;
4 ~~ANIMAL~~

5 **1.** ANIMAL MORTALITIES; OR

6 **2.** INDUSTRIAL ANIMAL PROCESSING RESIDUALS.

7 ~~(6)~~ **(7)** **(I)** “ON-SITE TYPE 2 FEEDSTOCK” MEANS TYPE 2
8 FEEDSTOCK THAT IS GENERATED ON-SITE.

9 **(II)** “ON-SITE TYPE 2 FEEDSTOCK” INCLUDES ANIMAL
10 MORTALITIES.

11 ~~(7)~~ **(8)** “TYPE 1 FEEDSTOCK” MEANS:

12 **(I)** YARD WASTE, AS DEFINED IN § 9-1701 OF THIS SUBTITLE;
13 AND

14 **(II)** OTHER MATERIALS DETERMINED BY THE DEPARTMENT TO
15 POSE A LOW LEVEL OF RISK FROM HAZARDOUS SUBSTANCES, HUMAN PATHOGENS,
16 AND PHYSICAL CONTAMINANTS.

17 ~~(8)~~ **(9)** “TYPE 2 FEEDSTOCK” MEANS:

18 **(I)** SOURCE-SEPARATED ORGANICS FROM RESIDENTIAL
19 CURBSIDE OR DROP-OFF PROGRAMS AND NONRESIDENTIAL SOURCES, INCLUDING
20 PRECONSUMER AND POSTCONSUMER FOOD SCRAPS AND NONRECYCLABLE PAPER;
21 AND

22 **(II)** DEPARTMENT-APPROVED ANIMAL MANURE AND BEDDING,
23 WITH DEPARTMENT APPROVAL BASED ON FACTORS SUCH AS MOISTURE CONTENT
24 AND PATHOGEN RISK.

25 **(B)** A person may operate a composting facility in the State only in accordance
26 with this part and any regulation, order, or permit adopted or issued under this part.

27 **[(b)] (C)** **(1)** The Department shall adopt regulations to implement the
28 provisions of this part.

29 **(2)** [Regulations] **THE REGULATIONS** adopted under paragraph (1) of this
30 subsection may:

1 (i) Establish conditions under which a person may construct and
2 operate a composting facility in the State;

3 (ii) Establish a tiered system of permits or approvals for composting
4 facilities based on the type of feedstock, size of the facility, and other factors determined by
5 the Department to be appropriate;

6 (iii) Establish design and operational conditions for composting
7 facilities to protect public health and the environment and to minimize nuisances;

8 (iv) Establish exceptions to any requirement to obtain a composting
9 facility permit or approval;

10 (v) Exempt certain organic materials that are composted from being
11 designated as solid wastes; ~~and~~

12 **(VI) REQUIRE THAT A NEW COMPOSTING FACILITY BE**
13 **CONSTRUCTED AND OPERATED IN ACCORDANCE WITH:**

14 **1. ANY REGULATIONS ADOPTED BY THE DEPARTMENT;**

15 **2. A NUTRIENT MANAGEMENT PLAN, IF REQUIRED**
16 **UNDER COMAR 15.20.07; AND**

17 **3. A. A SOIL CONSERVATION AND WATER QUALITY**
18 **PLAN IN ACCORDANCE WITH COMAR 26.04.11.06 THAT DESCRIBES THE**
19 **COMPOSTING FACILITY COMPONENTS AND DESIGN, SCHEDULE FOR STORAGE AND**
20 **UTILIZATION OF THE MATERIALS, SYSTEM MAINTENANCE, AND OPERATIONAL**
21 **PROCEDURES; OR**

22 **B. AN AGRICULTURAL WASTE MANAGEMENT SYSTEM**
23 **PLAN IN ACCORDANCE WITH COMAR 26.04.11.06 THAT DESCRIBES THE**
24 **COMPOSTING FACILITY COMPONENTS AND DESIGN, SCHEDULE FOR STORAGE AND**
25 **UTILIZATION OF THE MATERIALS, SYSTEM MAINTENANCE, AND OPERATIONAL**
26 **PROCEDURES; AND**

27 ~~(vi)~~ **(VII)** Establish any other provisions the Department deems
28 necessary to implement the provisions of this subtitle related to composting.

29 **(3) THE REGULATIONS ADOPTED UNDER THIS SUBSECTION SHALL**
30 **EXEMPT AN OPERATOR OF AN ON-FARM COMPOSTING FACILITY FROM THE**
31 **REQUIREMENT TO OBTAIN A PERMIT UNDER COMAR 26.04.11.06 IF THE ON-FARM**
32 **COMPOSTING FACILITY:**

1 (I) USES ~~40,000~~ 10,000 SQUARE FEET OF AREA OR LESS FOR
2 ACTIVE FOOD SCRAP COMPOSTING;

3 (II) COMPOSTS ONLY ONE OR MORE OF THE FOLLOWING:

4 1. ORGANIC MATERIALS GENERATED ON-SITE OR AT
5 ANOTHER FARM CONTROLLED BY THE SAME ~~OPERATOR~~ OWNER OR LESSEE OF THE
6 FARM;

7 2. ANIMAL MANURE AND BEDDING, GENERATED
8 ON-SITE;

9 3. TYPE 1 FEEDSTOCK, REGARDLESS OF THE PLACE OF
10 GENERATION;

11 4. OFF-SITE TYPE 2 FEEDSTOCK THAT IS:

12 A. NOT CONTAMINATED OR LIQUID;

13 B. IMMEDIATELY MIXED WITH CARBONACEOUS TYPE 1
14 FEEDSTOCK; AND

15 C. INCORPORATED INTO ACTIVE COMPOSTING WITHIN
16 24 HOURS AFTER ARRIVING ON-SITE; OR

17 5. ON-SITE TYPE 2 FEEDSTOCK;

18 (III) 1. RECORDS THE:

19 A. AMOUNT AND SOURCE OF ~~FEEDSTOCK~~ OFF-SITE TYPE
20 2 SOURCE-SEPARATED ORGANICS BEING COMPOSTED; AND

21 B. DATE AND TIME THE ~~FEEDSTOCK~~ OFF-SITE TYPE 2
22 SOURCE-SEPARATED ORGANICS ARRIVES ON THE FARM; ~~AND~~

23 2. RETAINS THE RECORDS FOR ~~3~~ 5 YEARS; AND

24 3. PROVIDES THE RECORDS TO THE DEPARTMENT ON
25 REQUEST FOR THE PURPOSE OF INSPECTION; AND

26 (IV) MEETS ANY OTHER CONDITION FOR A PERMIT EXEMPTION
27 SPECIFIED IN REGULATIONS.

28 (4) ON OR BEFORE DECEMBER 1, 2028, THE DEPARTMENT SHALL
29 SUBMIT A REPORT, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT

1 ARTICLE, TO THE GENERAL ASSEMBLY THAT ANALYZES THE IMPACT OF ON-FARM
 2 COMPOSTING FACILITIES IN MARYLAND, INCLUDING:

3 (I) THE AMOUNT OF FOOD WASTE DIVERTED FROM LANDFILLS;

4 (II) AN ESTIMATE OF THE AMOUNT OF FINISHED SOIL
 5 AMENDMENT PRODUCED BY ON-FARM COMPOSTING FACILITIES OPERATING UNDER
 6 THIS SECTION;

7 (III) OPERATIONAL CHALLENGES EXPERIENCED BY ON-FARM
 8 COMPOSTING FACILITIES;

9 (IV) VIOLATIONS AND ENFORCEMENT ACTIONS THAT HAVE
 10 ARISEN AS A RESULT OF THE EXPANSION OF FACILITIES UNDER THIS SECTION; AND

11 (V) RECOMMENDATIONS ON THE FEASIBILITY OF EXPANDING
 12 FACILITIES TO ALLOW FOR UP TO 40,000 SQUARE FEET TO BE USED FOR FOOD SCRAP
 13 COMPOSTING ACTIVITIES.

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

15 (a) This Act is not intended to alter the rules or requirements for farms or
 16 composting facilities operating without a composting permit in accordance with regulations
 17 in effect on January 1, 2023.

18 (b) The Department of the Environment shall require the operator of a farm to
 19 provide written notice to the Department before conducting on-farm composting without a
 20 permit in accordance with this Act.

21 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 22 October 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.