

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 676 (Montgomery County Delegation)
Environmental Matters

Montgomery County - Nuisances in Multidwelling Buildings - Private Right of
Action
MC 10-13

This bill expands the definition of “nuisance” in the Health-General Article to include – in Montgomery County *only* – tobacco smoke that, more than once in a consecutive 14-day period, drifts into a residential dwelling unit from another unit in the same multidwelling building. The bill also authorizes a Montgomery County resident who has been harmed by such a nuisance to bring an action to abate the nuisance or for any other compensatory or equitable relief against the person found to have created the nuisance.

Fiscal Summary

State Effect: Any increase in the workload of the District Court cannot be estimated but is expected to be minimal and absorbable within existing resources.

Local Effect: Potential minimal increase in Montgomery County expenditures to the extent that the bill’s expansion of the definition of “nuisance” results in increased enforcement by county health officers. Any increase in the workload of the Montgomery County circuit court cannot be estimated but is expected to be minimal and absorbable within existing resources. Potential minimal increase in revenues to the extent fines are imposed.

Small Business Effect: None.

Analysis

Current Law: The concept of “nuisance” originates under common law and is something that causes offense, annoyance, trouble, or injury. A private nuisance obstructs the rights of a specific individual or group, while a public nuisance is an act or omission that obstructs, damages, or inconveniences the rights of the community.

Several types of nuisances are specifically addressed in State law, including:

- conditions that are dangerous to health or safety, including an inadequately protected swimming pool, an unprotected open ditch, an unsanitary outhouse, a foul pigpen, an improperly functioning sewage system, an unkempt junkyard or scrap metal processing facility, an excessive accumulation of trash or garbage, a dead animal, a contaminated or inadequately protected water supply, a rodent harborage, poor housekeeping that could endanger an individual’s health, or any condition that may endanger health and may be transmitted by means including surface drainage and air currents (Title 20 of the Health-General Article);
- dwellings, buildings, vehicles, vessels, aircraft, or any other place(s) used by individuals to administer illegally controlled substances or where controlled dangerous substances or controlled substances or controlled paraphernalia are manufactured, distributed, dispensed, stored, or concealed illegally (Title 5 of the Criminal Law Article);
- conditions affecting public health and involving plumbing, drainage, offensive trades, water supplies, and disposal of any waste material (Title 10 of the Environment Article); and
- property that is used for prostitution or for the administration, manufacture, distribution, or storage of a controlled dangerous substance or related paraphernalia (Title 14 of the Real Property Article).

Depending on the nuisance, the department charged with abating the nuisance is authorized to enter onto private property to determine its existence.

Additionally, each county board of health is authorized to adopt and enforce rules and regulations on any nuisance or cause of disease in the county. If a county health officer investigates and finds a nuisance, the health officer is required to serve a written notice to the person who is causing the nuisance, ordering the person to abate the nuisance within a specified period of time.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Montgomery County, Maryland Association of County Health Officers, Department of Legislative Services

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mlm/ljm

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