

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 177
Judiciary

(Delegate Bromwell, *et al.*)

Judicial Proceedings

Criminal Law - Prohibition on Marking Flags - Repeal

This bill repeals the criminal prohibitions on making certain markings on a flag of or authorized by law of the United States or the State for exhibition or display, publicly exhibiting such a flag with certain marks, or displaying merchandise with such a flag to advertise or mark the merchandise.

Fiscal Summary

State Effect: The bill does not materially affect State finances.

Local Effect: The bill does not materially affect local finances.

Small Business Effect: Potential meaningful effect on small businesses that are reluctant to sell flag merchandise because of the State's existing prohibition on marking a flag.

Analysis

Current Law: With respect to a flag of the United States or of this State, or a flag that is authorized by law of the United States or of this State, State law prohibits a person from:

- placing or causing to be placed a word, figure, mark, picture, design, or advertisement of any nature on a flag for exhibition or display;
- publicly exhibiting a flag with a word, figure, mark, picture, design, or advertisement printed, painted, or produced on or attached to the flag; or

- publicly displaying for sale, manufacture, or otherwise, or selling, giving, or possessing an article of merchandise or receptacle on which a flag is produced or attached to advertise, decorate, or mark the merchandise.

Violators are guilty of a misdemeanor, punishable by a fine of up to \$500.

The State's prohibition on marking a flag is different and separate from the State's prohibition on mutilating/desecrating a flag under Criminal Law Article, § 10-704. That prohibition involves intentionally engaging in specified activities, including defacing a flag, in a manner intended to or under circumstances likely to incite or produce an imminent breach of the peace.

Background: The District Court advises that there were no violations of the prohibition on marking a flag in the District Court during fiscal 2015. The District Court further advises that it is not aware of any charges having ever been brought for violations of the State's prohibition on marking a flag.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - January 27, 2016
mel/kdm

Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510