

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1118

(Delegate Lafferty)

Environment and Transportation

Education, Health, and Environmental Affairs
and Finance

Natural Resources - Roadside Trees - Preservation and Protection

This bill (1) establishes the purposes for which the Department of Natural Resources (DNR) may authorize the maintenance or removal of roadside trees under a permit for roadside tree care; (2) establishes specified requirements for applicants for a permit; (3) requires replacement of removed trees; and (4) requires DNR to adopt specified regulations.

Fiscal Summary

State Effect: The bill is not expected to have a direct, material impact on State finances.

Local Effect: Local government expenditures may increase for tree replacement under local government tree care programs. Local revenues are not directly affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill states that it is the policy of the General Assembly to preserve and protect healthy roadside trees in the interests of providing environmental and ecological benefits and maintaining the social and economic benefits that roadside trees provide.

DNR may authorize, under a permit for roadside tree care, the maintenance or removal of any roadside trees:

- to eliminate a hazard or source of danger to property, public safety, or health;
- that are dead, dying, or deteriorating;
- to enable (1) necessary improvements, repairs, or expansion of conduits, rights-of-way, roadways, or other infrastructure or (2) development that meets local zoning and land use requirements; or
- in the discretion of DNR, consistent with its roadside tree program.

DNR may not authorize, under such a permit, the maintenance or removal of any roadside trees (1) to improve the general aesthetics of the right-of-way or an adjacent property or (2) for the convenience of an adjacent property owner or resident.

An applicant for a permit to remove a specific roadside tree or group of roadside trees must demonstrate to the satisfaction of DNR that the applicant has made a reasonable effort to protect and preserve the roadside tree or trees. An applicant for a permit for a program of general tree care must demonstrate to the satisfaction of DNR that the program includes reasonable standards and procedures to protect and preserve roadside trees.

A person who removes a specific roadside tree or group of roadside trees must replace the tree or trees with a species of tree or trees, within the timeframe, and in a location as approved in the permit. A person who administers a program of general tree care under a permit must ensure that any roadside tree that is removed under the permit is replaced consistent with the permit. A permit holder is not required to replace a removed roadside tree pursuant to the bill if a replacement tree is required to be planted under another provision of Title 5 (Forests and Parks) of the Natural Resources Article.

DNR must adopt regulations governing (1) the planting, care, maintenance, protection, and replacement of any roadside tree and (2) required notice by the permit holder to the appropriate State or local transportation or public works agency about the need to, if necessary, timely remediate a hazard or source of danger caused by a roadside tree removed under the permit.

Current Law: A “roadside tree” is any tree or shrub growing within the right-of-way of any public road. Subject to exceptions, including cases of a tree being unrooted, broken branches contacting utility wires, or danger to persons or property, any person who desires to cut down or trim any roadside tree must apply to DNR for a permit. DNR is authorized to make rules and regulations regarding roadside trees. A person who trims, cuts, removes, or injures a roadside tree in violation of DNR regulations or a permit, or who fails to obtain a permit, is subject to a penalty of up to \$2,000 for a first offense and up to \$5,000 for a second or subsequent offense.

DNR regulations establish two types of tree care permits: (1) those issued for a specific tree or group of trees for specific tree care operations for a term not exceeding one year (fee: \$25); and (2) those issued for comprehensive and continuing programs of general tree care such as those administered by State agencies, counties, municipalities, corporations, and public utilities (fee: \$2,500 per year per tree care crew or \$250 per month per tree care crew). A fee is not required for a tree care permit issued to an applicant that is a government agency. The regulations authorize DNR's Forest Service to issue a permit for tree care if the applicant shows that the proposed tree care will (1) eliminate a hazard to property, public safety, or health; (2) improve or prevent a deteriorated tree condition; or (3) improve the general aesthetic appearance of the right-of-way. Unless exempted by the Forest Service, if a tree is removed, it must be followed by replanting of a species on a recommended tree list that is suitable to the location.

Background: DNR indicates that the law and regulations addressing roadside trees were developed to ensure proper care and protection of the millions of trees growing along the more than 30,000 miles of improved roads in Maryland. The law and regulations also were developed to ensure the trees' compatibility with an efficient and dependable public utility system.

Local Expenditures: Local government transportation or public works agencies' expenditures may increase to the extent, under their tree care programs, all removed trees are not currently replaced. Under the bill, any removed tree must be replaced. DNR indicates that under its current permit system, trees are required to be replaced in most, but not all, circumstances. If a replacement tree may cause a similar hazard as the tree removed, for example, replacement may not be required. The cost of certain species of replacement trees can reach \$250 per tree.

Small Business Effect: Tree care businesses may be meaningfully impacted by the bill to the extent the bill limits the amount of maintenance or removal work done on roadside trees. Any reduction in the amount of maintenance or removal work may be offset to some extent by increased work associated with the replacement of removed trees. Other small businesses could also be affected to the extent they seek to have any roadside trees removed.

Additional Comments: Utility companies are issued roadside tree care permits for their vegetation management work. To the extent utilities incur costs to comply with the bill and pass those costs through to utility customers, electricity rates may increase.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources; Maryland Department of Transportation; Public Service Commission; Baltimore City; Caroline, Montgomery, and Prince George's counties; cities of Bowie and Takoma Park; FirstEnergy; Department of Legislative Services

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