

Department of Legislative Services  
 Maryland General Assembly  
 2020 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 1547 (Delegate Lehman, *et al.*)  
 Economic Matters

**Environment - Synthetic Turf and Turf Infill - Producer Responsibility**

This bill establishes restrictions on the sale, distribution, importation, or offering for promotional purposes of “synthetic turf” and “turf infill” in the State unless the producer of the turf or turf infill submits to and has a “stewardship plan” approved by the Maryland Department of the Environment (MDE). The bill establishes requirements for MDE and restrictions on the reuse and disposal of synthetic turf and turf infill. The bill also establishes requirements for tracking the chain of custody of synthetic turf and turf infill. Finally, the bill establishes immunity from liability for participants.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$39,014 in FY 2021; future years reflect annualization and ongoing costs. General fund revenues increase correspondingly from funding provided by participants. State expenditures (multiple fund types) may increase to purchase, track, and dispose of synthetic turf and turf infill. The application of existing penalties is not anticipated to materially affect State revenues.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
GF Revenue	\$39,000	\$40,600	\$41,700	\$41,800	\$0
GF Expenditure	\$39,000	\$40,600	\$41,700	\$41,800	\$0
GF/SF Exp.	-	-	-	-	-
Higher Ed Exp.	-	-	-	-	-
Net Effect	(-)	(-)	(-)	(-)	(-)

*Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** Local expenditures may increase, potentially significantly, to purchase, track, and dispose of synthetic turf and turf infill. Local revenues are not affected. **This bill may impose a mandate on a unit of local government.**

**Small Business Effect:** Meaningful.

## Analysis

### Bill Summary:

#### *Key Definitions*

“Synthetic turf” is plastic tufted carpet that is intended to have, or incidentally has, an appearance that mimics grass and functions as a replacement for grass. “Turf infill” is material that (1) is poured on top of synthetic turf to hold synthetic turf blades in place; (2) weighs down the synthetic turf so it does not develop wrinkles or buckles; (3) mimics the impact absorption properties of soil under natural grass; and (4) includes shredded or granulated tire, rubber, or silica sand.

A “stewardship plan” is a plan developed by a producer or stewardship organization in accordance with the bill for responsibly, over a five-year period, (1) selling, offering for sale, distributing, importing, or offering for promotional purposes synthetic turf and turf infill in the State and (2) providing for the recycling, reuse, or disposal of synthetic turf and turf infill.

#### *Requirement for Synthetic Turf and Turf Infill Stewardship Plans*

By January 1, 2021, each producer that sells or that sells, offers for sale, distributes, imports, or offers for promotional purposes synthetic turf and turf infill in the State must, individually or as part of a stewardship organization, submit a synthetic turf and turf infill stewardship plan to MDE for review and approval. Beginning January 1, 2021, a producer may not sell, offer for sale, distribute, import, or offer for promotional purposes synthetic turf and turf infill in the State unless the producer has an approved stewardship plan on file with MDE.

A stewardship plan must include (1) a list of the producers and brands covered by the stewardship plan; (2) a description of the financing method that will be used to implement the plan, taking into account specified factors, including funding for MDE to conduct administration, oversight, and enforcement of the plan; (3) performance goals for the five-year term of the stewardship plan; (4) a description of how the plan will ensure that the components of the synthetic turf and turf infill are recycled to the maximum extent economically and technically feasible; and (5) a list of all participants in the synthetic turf and turf infill recycling program, as specified.

A producer or stewardship organization must be responsible for financing the end-of-life management of synthetic turf and turf infill in proportion to the producer’s or stewardship organization’s market share of synthetic turf and turf infill sales during the immediately preceding calendar year.

### *MDE Administrative Responsibilities and Enforcement Powers*

MDE must (1) post a proposed stewardship plan and any proposed amendment to an existing plan on its website for 30 days after the plan or amendment is submitted and (2) provide for public review and comment on the proposed plan or amendment. The bill also establishes plan review requirements for MDE, including that MDE must make a determination and provide the producer with specified feedback within 45 days of receiving a proposed stewardship plan.

An approved plan expires after five years, provided that the producer or stewardship organization remains in compliance with the terms of the approved plan and the requirements of the bill. MDE may require a producer or stewardship organization to submit a revised plan if the approved plan fails to meet performance goals.

MDE must develop and maintain a website that includes (1) a copy of all approved stewardship plans; (2) the names of producers covered by approved plans; and (3) a list of brands that covered by approved plans.

MDE may prohibit a producer or stewardship organization from soliciting new contracts related to synthetic turf and turf infill for at least one year if the producer or stewardship organization violates the bill's provisions. This prohibition may be withdrawn by MDE.

### *System to Track the Chain of Custody*

By January 1, 2021, each producer of synthetic turf and turf infill sold or distributed in the State must establish a system to track the chain of custody of the synthetic turf and turf infill from its manufacture to its installation, use, reuse, recycling, and final disposal. For synthetic turf and turf infill already installed as of January 1, 2021, the owner of the synthetic turf and turf infill must establish a system to track the chain of custody. The chain of custody information must be transmitted to MDE in writing and must include specified information. MDE must publish the chain of custody on its website.

### *Restrictions on Reuse and Disposal*

Synthetic turf and turf infill may not be reused unless the original owner submits a written request to MDE and MDE approves the request. After exhausting the recycling and reuse options under the bill, a person must dispose of synthetic turf and turf infill in a manner that prevents the material from contaminating air, soil, and water.

### *Reporting Requirements*

By January 1, 2022, and annually thereafter, a producer or stewardship organization must submit a report to MDE that evaluates the progress made toward reaching performance goals. The bill specifies the required contents of the report.

### *Immunity*

Any person participating in a stewardship plan that is in compliance with the bill is immune from liability under State law relating to antitrust and restraint of trade for any cooperative activities arising out of the recycling, reuse, and disposal of synthetic turf and turf infill.

**Current Law:** Current law does not specifically address synthetic turf or turf infill. The solid waste infrastructure in Maryland consists of both permitted and nonpermitted facilities, and solid waste is managed through a combination of recycling, composting, landfilling, energy recovery, and exporting for disposal or recycling. Privately and county-owned facilities make up the majority of facilities in the State.

Existing penalty provisions for water, ice, and sanitary facilities would apply to the bill's provisions. A violator is subject to injunctive action and a civil penalty up to \$10,000, which is collected in a civil action brought by MDE. MDE is also authorized to impose administrative penalties of up to \$10,000 per day, but those penalties may not exceed \$100,000 total, as specified. Penalties are deposited into the Maryland Clean Water Fund.

### **State Expenditures:**

#### *Maryland Department of the Environment – Administrative Costs*

General fund expenditures for MDE increase by \$39,014 in fiscal 2021, which accounts for the bill's October 1, 2020 effective date. This estimate reflects the cost of hiring one contractual natural resources planner to (1) accept and review stewardship plans; (2) post the plans to MDE's website and allow for public comment on the proposed plans; (3) review and approve or reject written requests from original owners to allow for reuse of synthetic turf and turf infill; (4) review and evaluate annual reports; and (5) conduct compliance and enforcement activities. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Contractual Position	1
Salary and Fringe Benefits	\$31,658
Operating Expenses	<u>7,356</u>
<b>Total FY 2021 MDE Administrative Costs</b>	<b>\$39,014</b>

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses; future year expenditures also reflect termination of the contractual employee in fiscal 2024 after the initial plans have been reviewed and the program has been established. It is assumed that any ongoing responsibilities after fiscal 2024 can be handled with existing resources.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

#### *State Agencies, Generally – Costs to Dispose of Synthetic Turf and Turf Infill*

The regulated community is likely broad and includes (1) private and public schools of all levels (prekindergarten through grade 12 as well as institutions of higher education); (2) local governments; and (3) any State agencies that own synthetic turf and turf infill fields that were already installed as of January 1, 2021. Thus, State expenditures (multiple fund types) for various State agencies, such as the University System of Maryland, may increase to purchase synthetic turf and turf infill, dispose of or recycle synthetic turf and turf infill, and develop a system to track the chain of custody. An exact cost is unknown, but disposal costs could increase significantly under the bill.

**State Revenues:** The bill requires that stewardship plans include a description of the financing method that will be used to implement the plan, taking into account specified factors, including that the plan must provide funding for MDE to conduct administration, oversight, and enforcement of the stewardship plan. However, the bill is silent as to how any such funding would be provided or where it would be deposited.

For the purposes of this analysis, it is assumed that program funding is deposited into the general fund and that funding provided by participants is sufficient to cover MDE's costs each year. Thus, general fund revenues increase correspondingly to the expenditures described above from fiscal 2021 through 2024.

The application of existing penalty provisions is not anticipated to materially affect State revenues.

**Local Expenditures:** As discussed above, the regulated community likely includes local school systems and local governments that own or maintain synthetic turf and turf infill fields. Thus, local government expenditures may increase, potentially significantly, to purchase synthetic turf and turf infill, dispose of synthetic turf and turf infill, and develop a chain of custody as required under the bill. Expenditures will vary by jurisdiction.

**Small Business Effect:** The bill has a significant impact on any small business that sells, recycles, or otherwise disposes of synthetic turf and turf infill fields. The increase in disposal costs may reduce the market for these types of fields in Maryland. The bill also likely increases disposal costs for any small business that needs to dispose of and/or replace synthetic turf and turf infill that was in place as of January 1, 2021.

**Additional Comments:** Expenditures for nonpublic schools increase, similar to the costs described above for local school systems.

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### **Additional Information**

**Prior Introductions:** HB 1142 of 2019, a similar bill, received a hearing in the House Environment and Transportation Committee but was subsequently withdrawn.

**Designated Cross File:** None.

**Information Source(s):** Baltimore, Garrett, and Montgomery counties; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; U.S. Environmental Protection Agency; Department of Legislative Services

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