

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 643

(Senator Carter)(By Request - Baltimore City
Administration)

Judicial Proceedings

Health and Government Operations

Public Information Act - Surveillance Images - Illegal Dumping in Baltimore
City

This bill alters provisions under the Public Information Act (PIA) to require a custodian to allow inspection of a surveillance image of illegal dumping in Baltimore City by an employee or agent of the Baltimore City Department of Housing and Community Development (DHCD) in an investigation or proceeding under § 10-112 of the Criminal Law Article.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations.

Local Effect: The bill is not expected to materially affect Baltimore City finances or operations, as discussed below.

Small Business Effect: None.

Analysis

Current Law:

Illegal Dumping in Baltimore City

Surveillance Systems: Section 10-112 of the Criminal Law Article authorizes the Baltimore City DHCD or another department designated by the Mayor of Baltimore City to place surveillance systems at dumping sites and use surveillance images to enforce the State Illegal Dumping and Litter Control Law (discussed below) or local laws relating to

the unlawful disposal of litter. A “dumping site” is a location in Baltimore City that is (1) owned by Baltimore City or the State and (2) identified by the department as property that has been repeatedly used for the disposal of litter in violation of State law or a local law or ordinance.

A “surveillance system” is a collection of one or more cameras located at a dumping site that produces a surveillance image. A “surveillance image” means an image recorded by a surveillance system on a photograph, a micrograph, an electronic image, videotape, or any other medium showing (1) the front or rear of a motor vehicle, and, on at least one image or portion of the tape, clearly identifying the registration plate number of the motor vehicle and (2) an individual committing a violation of the State Illegal Dumping and Litter Control Law or a local law or ordinance relating to the unlawful disposal of litter.

Enforcement/Penalties: A person who violates the State Illegal Dumping and Litter Control Law or a local law or ordinance relating to the unlawful disposal of litter that occurs at a dumping site monitored by a surveillance system is subject to a civil penalty of up to \$1,000. Unless the person committing a violation received a citation from a police officer at the time of the violation, the owner of the vehicle used to commit the violation is subject to the civil penalty.

The Baltimore City DHCD (or a designated department) must mail the owner a citation that includes the (1) name and address of the registered owner of the vehicle; (2) the registration number of the vehicle; (3) the violation charged; (4) the location where the violation occurred; (5) the date and time of the violation; (6) a copy of the surveillance image; (7) the amount of the civil penalty imposed and the date by it must be paid; and (8) other specified information. The citation must be mailed no later than two weeks after the alleged violation occurred, except as specified. A person who receives a citation may pay the civil penalty directly to Baltimore City or elect to stand trial in the District Court for the alleged violation.

The District Court may consider in defense of a violation the fact that the vehicle or its registration plates were stolen prior to the violation and that they were not in the possession of the owner at the time of the violation. Additionally, the District Court may consider in defense of a violation evidence that the person named in the citation was not the person in the surveillance image committing the violation.

Failure to pay the civil penalty or contest liability in a timely manner is an admission of liability; the Motor Vehicle Administration (MVA) is required to suspend and refuse to transfer the registration of a vehicle involved in a violation under these circumstances if it receives the appropriate notification or if the District Court notifies MVA that the alleged violator elected to stand trial and failed to appear in court.

Inspections of Surveillance Images under the Public Information Act: Under § 4-322 of the General Provisions Article, in general, a “custodian” of a “surveillance image,” as defined in § 10-112 of the Criminal Law Article, must deny inspection of the surveillance image. However, a custodian must permit inspection of a surveillance image (1) by any person issued a citation under § 10-112 of the Criminal Law Article or by an attorney of record for the person and; (2) by an employee or agent of the Baltimore City Department of Public Works in an investigation or a proceeding relating to the imposition or indemnification from civil liability under § 10-112; or (3) as required in § 10-112.

A “custodian,” under PIA, means (1) the official custodian or (2) any other authorized individual who has physical custody and control of a public record.

State Illegal Dumping and Litter Control Law – § 10-110 of the Criminal Law Article

Under § 10-110 of the Criminal Law Article, a person is prohibited from (1) disposing of litter on a highway or performing an act that violates the State Vehicle Laws regarding disposal of litter, glass, and other prohibited substances on highways or (2) disposing or causing or allowing the disposal of litter on public or private property unless authorized or the litter is placed into a proper receptacle.

An individual who violates § 10-110 is guilty of a misdemeanor and subject to the following penalties, depending on the weight or volume of the disposed litter:

- up to 100 pounds or 27 cubic feet (not for commercial gain) – imprisonment for up to 30 days and/or a \$1,500 maximum fine;
- more than 100 pounds or 27 cubic feet and up to 500 pounds or 216 cubic feet (not for commercial gain) – imprisonment for up to one year and/or a \$12,500 maximum fine; and
- more than 500 pounds or 216 cubic feet (not for commercial gain) or any amount for commercial gain – imprisonment for up to five years and/or a \$30,000 maximum fine.

The court may also require cleanup of the disposed litter, repair or restoration of damaged property, payment of damages for the disposal of the litter, community service, or reimbursement of the appropriate governmental entity for specified costs incurred. If the violator used a motor vehicle to commit the violation, the court must notify MVA; violations are subject to the assessment of points. MVA is required to suspend and refuse to transfer the registration of a vehicle involved in a violation if it receives the appropriate notification that a person cited for a violation failed to pay the fine or elect to stand trial or if the District Court notifies MVA that the cited person elected to stand trial and failed to appear in court.

Fines collected for violations of the State Illegal Dumping and Litter Control Law must be disbursed to the county or municipality where the violation occurred or, under specified circumstances, to the Maryland-National Capital Park and Planning Commission or the Washington Suburban Sanitary Commission. Disbursed fines must be used for specified litter-related purposes.

Local Fiscal Effect: According to Baltimore City, the public dissemination of surveillance images to the press and social media would be helpful to its efforts to combat illegal dumping. Baltimore City anticipates that if it could publicly disseminate such images, members of the public may come forward with information that could lead to the identification of persons engaged in illegal dumping activities.

However, while the bill authorizes an employee or agent of the Baltimore City DHCD to *inspect* surveillance images of illegal dumping activities in Baltimore City in an investigation or proceeding under § 10-112 of the Criminal Law Article, the Office of the Attorney General advises that the bill does not authorize the Baltimore City DHCD to publicly *disseminate* such surveillance images. As discussed above under the Current Law section of this fiscal and policy note, under § 4-322 of the General Provisions Article, a custodian of a surveillance image must, in general, deny inspection of the surveillance image, except as specified. As the Baltimore City DHCD becomes a custodian of the surveillance images upon gaining physical custody and control of the images, it is prohibited from allowing inspection of those images by entities not specified in statute.

Accordingly, the bill has no material impact on Baltimore City's finances or operations.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Baltimore City; Office of the Attorney General; Judiciary (Administrative Office of the Courts); Department of General Services; Department of Legislative Services

Fiscal Note History:
rh/aad

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Analysis by: Ralph W. Kettell

Direct Inquiries to:

(410) 946-5510

(301) 970-5510