

Department of Legislative Services  
Maryland General Assembly  
2000 Session

FISCAL NOTE  
Revised

House Bill 307 (Delegate Branch. *et al.*)

Environmental Matters

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Scrap Tires - Disposal - Penalties

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This bill prohibits a person from disposing of scrap tires except through a licensed scrap tire hauler or by delivering the tires to an approved facility. The bill establishes criminal penalties for violations of the bill's prohibition and specified provisions of current law. It also modifies current law relating to the authority of the Maryland Department of the Environment (MDE) to impose civil and administrative penalties for violations of specified provisions of the scrap tire law.

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Fiscal Summary

**State Effect:** Potential increase in general fund revenues related to the collection of criminal monetary penalties for those cases heard in the District Court. The incarceration penalty provisions are not expected to significantly affect State finances or operations. Broadening the application of existing civil and administrative penalties is not expected to materially affect special fund revenues. Potential increase in special fund expenditures related to the increased prosecutions of violations.

**Local Effect:** Potential increase in revenues related to the collection of criminal penalties for those cases heard in the circuit courts. The incarceration penalty provisions are not expected to significantly affect local expenditures.

**Small Business Effect:** Minimal.

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Analysis

**Bill Summary:** Current law defines an “approved facility” as a facility located in or outside the State for collecting, recycling, or otherwise processing scrap tires that is approved or licensed by MDE. The bill establishes criminal penalties as follows:

- a person who violates the bill’s prohibition is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 30 days, or both;
- a person who violates the bill’s prohibition for monetary or financial gain is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$25,000 or imprisonment not exceeding five years, or both; and
- a person who violates specified provisions of current law governing the licensure of scrap tire haulers, collection facilities, and recyclers, or violates regulations, orders, or permits adopted under those provisions, is guilty of a misdemeanor and is subject to a fine not exceeding \$10,000.

The bill also provides that:

- a person accused of a violation may waive an opportunity for a hearing in writing;
- the Attorney General shall represent the State in any case brought under the bill;
- the bill may not limit or affect the power of the State’s attorney for a county; and
- a civil penalty imposed pursuant to this bill is payable to the State and collectible in any manner provided for the collection of debts.

The bill also contains several provisions relating to violations of current law, as modified by the bill’s prohibition, that merely clarify current law by making penalties apply specifically to the provision of current law containing the bill’s prohibition. MDE already has civil and administrative penalty authority under other provisions of law governing penalties for violations of the scrap tire law. The bill’s provisions include:

- for violations of specified provisions of the scrap tire law, or regulations, orders, or permits adopted or issued under those provisions, MDE is authorized to collect a civil penalty not exceeding \$10,000 (each day a violation occurs is a separate violation);
- for violations of specified provisions of the scrap tire law, or violations of regulations, orders, or permits adopted or issued under those provisions, MDE is authorized to bring an action to enjoin a violator;
- for violations of specified provisions of the scrap tire law, or violations of regulations, orders, or permits adopted or issued under those provisions, MDE may impose a

penalty of up to \$1,000 per violation not exceeding \$50,000 total, assessed with specified considerations; and

- if a person who is liable for a penalty fails to pay it after demand, the amount, with interest and any costs that may accrue, shall be: (1) a lien in favor of the State on any property of the person; and (2) recorded in the office of the clerk of the court for the county in which the property is located.

**Current Law:** Except under specified conditions, a person may not store scrap tires in the State or dispose of scrap tires in a landfill. Scrap tire haulers, collection facilities, other specified facilities, and recyclers are required to be licensed by MDE. A scrap tire hauler or scrap tire collection facility may not transport or transfer scrap tires to any place other than an MDE designated facility. MDE may bring an action for an injunction against any person who violates any provision or any rule, regulation, order, or permit adopted or issued under the scrap tire law. MDE may also bring a civil action against a violator to collect a civil penalty not exceeding \$10,000 per violation. Each day a violation occurs is a separate violation. MDE may impose an administrative penalty of up to \$1,000 per violation, not exceeding \$50,000 total, assessed with specified considerations.

**Background:** According to MDE's fiscal 1999 *Annual Enforcement and Compliance Report*, MDE had permitted or licensed 3,287 sites and facilities. MDE regulated an additional 63 stockpile sites that had been designated for cleanup. MDE investigates, initiates legal action, and pursues cost recovery for the cost of scrap tire site cleanups against a person who illegally dumps or disposes of scrap tires. In 1999, MDE inspectors conducted a total of 876 scrap tire investigations and inspections at licensed scrap tire facilities as well as designated cleanup sites. Inspectors identified 23 significant ongoing violations and resolved ten of them in fiscal 1999. MDE also rendered 70 compliance assistance actions in fiscal 1999. Only one show cause, remedial, or corrective action was issued, and no stop work orders or injunctions were obtained in that year. In fiscal 1999, MDE assessed 22 penalties and other enforcement actions and referred one case to the Attorney General for possible criminal action. In total, MDE collected \$7,300 in penalties in fiscal 1999 for violations of the scrap tire law. All penalties are paid into the Used Tire Cleanup and Recycling Fund.

**State Revenues:** The bill's criminal penalty provisions should enhance MDE's enforcement capability relating to the scrap tire law and could result in the collection of additional monetary penalties, as specified in the bill. The number of additional enforcement activities that would be pursued in the District Court as a result of the bill is unknown. Accordingly, a precise estimate of any increase in general fund revenues cannot be made at this time.

The bill's prohibition, while broadened somewhat from the current prohibition, is not anticipated to generate a measurable amount of additional special fund revenue from civil and administrative penalties because the number of additional violations that would occur as a result of the broadened prohibition is expected to be minimal.

**State Expenditures:** Because the establishment of criminal penalties could result in an increase in the number of enforcement actions taken, the bill could result in an increase in special fund expenditures related to prosecuting additional violators. However, because the number of enforcement actions that would be taken pursuant to this bill is unknown, any increase in special fund expenditures cannot be reliably estimated. The incarceration penalty provisions are not expected to significantly affect general fund expenditures.

**Local Fiscal Effect:** Because the establishment of criminal penalties could result in an increase in the number of enforcement actions taken to the circuit courts, the bill could result in an increase in local revenues related to criminal penalties. However, because the number of enforcement actions that would be taken to the circuit courts is unknown, any increase in revenues cannot be reliably estimated. The incarceration penalty provisions of this bill are not expected to significantly affect local expenditures.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of the Environment, Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2000  
cm/jr Revised - House Third Reader - March 16, 2000

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