

Department of Legislative Services  
Maryland General Assembly  
2001 Session

FISCAL NOTE  
Revised

House Bill 481 (Delegate Branch, *et al.*)

Environmental Matters

Economic and Environmental Affairs

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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. Existing civil and administrative penalty provisions would apply to the bill's prohibition.

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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 the Attorney General shall represent the State in any case brought under the bill, and that the bill may not limit or affect the power of the State's attorney for a county.

**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. All penalties are paid into the Used Tire Cleanup and Recycling Fund.

**Background:** According to MDE's fiscal 2000 *Annual Enforcement and Compliance Report*, MDE had permitted or licensed 3,063 sites and facilities. MDE regulated an additional 78 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 fiscal 2000, MDE inspectors conducted a total of 1,073 scrap tire investigations and inspections at licensed scrap tire facilities as well as designated cleanup sites. Inspectors identified 23 significant ongoing violations and resolved nine of them in fiscal 2000. MDE also rendered 37 compliance assistance actions in fiscal 2000. Only five show cause, remedial, or corrective actions were issued, and only one injunction was obtained in that year. In fiscal 2000, MDE assessed 12 penalties and other enforcement actions and referred two cases to the Attorney General for possible criminal action. MDE collected no penalties in fiscal 2000 for violations of the scrap tire law.

**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. Any resulting 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:** The establishment of criminal penalties could result in an increase in the number of enforcement actions taken to the circuit courts. However, because the number of enforcement actions that would be taken to the circuit courts is unknown, any revenue increase from fines 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:** Similar legislation was introduced in the 2000 session as HB 307. The bill passed the House with amendments. The Senate Economic and Environmental Affairs Committee held a hearing on the bill, but no further action was taken.

**Cross File:** None.

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

**Fiscal Note History:** First Reader – February 12, 2001  
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