

Department of Legislative Services
 Maryland General Assembly
 2001 Session

FISCAL NOTE
Revised

Senate Bill 376 (Senators Stone and Collins)

Economic and Environmental Affairs

Environmental Matters

Environment - Noise Inspectors

This bill requires the Maryland Department of the Environment (MDE) to employ two noise inspectors to enforce its sound level limits and noise control regulations. The bill authorizes a noise inspector to issue a civil citation with a maximum penalty of \$500 to any individual found in violation of sound level limits and noise control regulations. Any money collected pursuant to the bill must be paid into the general fund. Any person issued a citation may appeal the citation to the Office of Administrative Hearings (OAH) in accordance with the Administrative Procedure Act. The civil citation authorized by the bill is in addition to civil penalties currently authorized under the noise control law.

Fiscal Summary

State Effect: General fund expenditure increase of \$78,600 in FY 2002 to hire one additional noise inspector and to issue citations. Future year estimates are annualized, adjusted for inflation, and reflect ongoing operating expenses. Potential increase in general fund revenues related to civil penalties.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
GF Revenue	-	-	-	-	-
GF Expenditure	78,600	54,800	57,100	59,600	62,200
Net Effect	(\$78,600)	(\$54,800)	(\$57,100)	(\$59,600)	(\$62,200)

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

Local Effect: The bill would not significantly affect local operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: MDE must adopt environmental noise standards, sound level limits, and noise control rules and regulations as necessary to protect the public health, the general welfare, and property. MDE may not adopt standards, limits, or rules and regulations that apply to noise from construction or repair work on public property or fire or rescue station alerting devices. MDE must enforce the sound level limits and noise control rules and regulations adopted. To the maximum extent possible, MDE must use the facilities and services of appropriate agencies of political subdivisions in its enforcement. MDE may assist the noise control efforts of any appropriate agency of any political subdivision by giving that agency technical assistance in the form of personnel or equipment.

A person who willfully violates the noise control law, rules, regulations, or orders is liable to a civil penalty not exceeding \$10,000 to be collected in a civil action brought by MDE in the circuit court for any county. Each day a violation continues is a separate violation.

Pursuant to the Administrative Procedure Act, OAH conducts contested case hearings for MDE decisions.

Background: MDE's noise program operates on a complaint basis. Currently, one inspector is assigned to the program. The current program is appropriated approximately \$75,000 annually in general funds. MDE advises that it receives approximately 150 complaints annually.

State Expenditures: MDE currently employs one noise inspector. MDE advises that general fund expenditures would increase by approximately \$227,800 in fiscal 2002 to hire one additional noise inspector, one full-time attorney, one part-time attorney, one administrative officer, and one administrative specialist and for associated operating expenses. MDE reports that the additional positions are needed to provide legal support for the additional inspector and to manage and track civil citations issued pursuant to the bill. MDE further advises that the two inspectors would be required to carry firearms and protective gear and to attend training with respect to the use of firearms, firearms safety, the use of deadly force, powers of arrest, and situation negotiation.

Legislative Services advises, however, that the number of citations that will be issued as a result of the bill is unknown. Currently, MDE receives approximately 150 complaints per year. Even if the bill results in as many citations, Legislative Services advises that MDE should be able to handle the increased workload with existing staff (in addition to the required inspector). To the extent that existing staff proves inadequate, MDE may seek additional positions through the annual budget process. Further, while Legislative

Services agrees that some additional training and supplies would be needed for the inspectors to issue citations, the bill does not specifically provide inspectors with arrest authority, nor does the bill preclude inspectors from calling upon existing local police officers in situations that appear threatening. Accordingly, Legislative Services advises that general fund expenditures could increase by an estimated \$78,600 in fiscal 2002, which accounts for the bill's October 1, 2001 effective date. This estimate reflects the cost of hiring one additional noise inspector to enforce MDE's sound level limits and noise control regulations. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- the new inspector will require a vehicle, a noise meter, a cell phone, a pager, and a vibration detector;
- the new inspector will travel approximately 20,000 miles annually to perform inspections;
- the new inspector will attend training conferences related to noise and investigations;
- both inspectors will attend situation negotiation training;
- re-calibration of equipment will be performed approximately four times annually by certified consultants; and
- contractual services will be used to develop citation books and to print approximately 9,000 brochures annually to provide local jurisdictions with additional guidance.

Salary and Fringe Benefits	\$26,300
Equipment	26,800
Automobile Purchase and Operations	14,100
Other Operating Expenses	<u>11,400</u>
Total FY 2002 State Expenditures	\$78,600

Future year expenditures reflect: (1) a full salary with a 6.5% increase in fiscal 2003 and a 4.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

It is assumed that the number of appeals made to OAH with respect to citations issued pursuant to the bill would not be significant. Accordingly, OAH could handle any increase in workload with existing budgeted resources.

State Revenues: The number of citations that would be issued as a result of the bill is unknown. In any event, general fund revenues would increase by \$500 for each citation issued (and not appealed). MDE currently receives approximately 150 complaints annually. *For illustrative purposes*, if inspectors issue a citation for each complaint, general fund revenues could increase by approximately \$75,000 annually.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Office of Administrative Hearings, Department of Legislative Services

Fiscal Note History: First Reader – February 21, 2001
mld/cer Revised – Senate Third Reader – March 26, 2001
Revised – Enrolled Bill – May 7, 2001

Analysis by: Lesley Frymier

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510