

Department of Legislative Services

Maryland General Assembly

2003 Session

FISCAL AND POLICY NOTE

Senate Bill 114 (Chairman, Education, Health, and Environmental Affairs)
(By Request - Departmental - Natural Resources)

Education, Health, and Environmental Affairs

Natural Resources - Roadside Trees - Permit Requirements

This departmental bill makes the permit requirements of the Roadside Tree Law applicable to trees located on both public and private property. The bill also requires that a person applying for a roadside tree permit from the Department of Natural Resources (DNR) demonstrate that the proposed tree care will eliminate a hazard to property, public safety, or public health; improve or prevent a deteriorated tree condition; or improve the general aesthetic appearance of the right-of-way.

Fiscal Summary

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

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

Small Business Effect: DNR has determined that this bill will have minimal or no impact on small business (attached). Legislative Services concurs with this assessment as discussed below.

Analysis

Current Law: In general, a person may not cut down or trim any roadside tree without a permit from DNR. If a tree is unrooted or its branches broken so as to contact wires carrying electric current, or if the tree or its branches endanger persons or property, the tree or its branches may be removed without first obtaining a permit. A tree standing within the right-of-way of a public road that does not have an improved surface may be

cut down and removed by the abutting landowner for personal use without first obtaining a permit.

Background: Millions of trees grow along the more than 30,000 miles of improved roads in Maryland. The Roadside Tree Law was enacted in 1914 to protect roadside trees by ensuring their proper care and protection and to ensure their compatibility with an efficient and dependable public utility system.

DNR advises that this bill is necessary in order for DNR to regulate the care of privately-owned roadside trees located in public rights-of-way. During the 2002 session, SB 322, which ultimately failed, was introduced in an effort to provide exemptions to the law if the tree was located on a person's property or if that person planted the tree. As a result of that legislation, DNR requested the Office of the Attorney General (AG) to review the applicability of the current law. The AG's opinion stated that the law requires a private owner of trees in a public right-of-way to obtain a permit before trimming or removing such trees, but that DNR can only condition a permit for reasons of public safety or convenience and cannot deny a permit. For trees located on public property, however, DNR can deny a permit or require as a condition of a permit that a permittee replant a roadside tree. DNR advises that the AG's finding makes the program difficult to administer because it requires that DNR apply the law differently to trees located on public property and privately-owned trees located in public rights-of-way. According to DNR, it is difficult to efficiently determine whether a given permit application applies to a tree on public land or to a privately-owned tree in a public right-of-way.

Small Business Effect: DNR advises that currently it cannot require a private owner of trees in a public right-of-way to replant a roadside tree as a condition of the permit. Under this bill, DNR could require that such a permittee replant a roadside tree. Small businesses owning trees in public rights-of-way could, therefore, incur additional costs related to replacing trees. Likewise, small businesses involved with the replacement of trees, such as nurseries and landscaping companies, could benefit.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Department of Legislative Services

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