

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 471

(Allegany County Delegation)

Environmental Matters

Education, Health, and Environmental Affairs

**Code Counties - Western Maryland - Junkyards, Dumps, and Other
Facilities - Abatement of Violations**

This bill authorizes the county commissioners of a code county in the Western Maryland class to abate, or contract for the abatement of, a violation of rules or regulations regarding junkyards at the expense of the owner of the real property where the violation occurred.

Fiscal Summary

State Effect: None.

Local Effect: Allegany County expenditures could increase to abate violations of junkyard rules and regulations. Allegany County revenues could then increase from money collected from the owner of the real property where the violation of junkyard rules and regulations occurred.

Small Business Effect: Minimal overall, but potential meaningful for junkyard owners in Allegany County who would face greater expenses to satisfy liens or loss of their real property in cases where a county has taken action to abate violations of rules and regulations regarding junkyards.

Analysis

Current Law: The governing body of any county may adopt and promulgate rules and regulations for the licensing, control, location, and maintenance within their respective limits of junkyards; public or private dumps; automobile junkyards, automotive dismantler and recycler facilities; scrap metal processing facilities, or outdoor places

where old motor vehicles are stored in quantity or dismantled; and lots on which refuse, trash, or junk is deposited. However, counties do not have the express statutory authority to abate violations of rules and regulations regarding junkyards at the expense of the real property owner where the violation occurred.

Violation of rules and regulations regarding any unlicensed junkyard facility or dump is a misdemeanor, and violators are subject to a fine of at least \$25 for each day the junkyard is in noncompliance. However, the Allegany County Commissioners may declare a violation of any rule or regulation concerning junkyards, dumps, and other facilities to be a civil infraction with a fine of up to \$500 for a first offense and up to \$1,000 for a repeat offense.

Background: Allegany County is the only county in Western Maryland that has adopted code home rule under Article XI-F of the Maryland Constitution. Allegany County advises that the county has attempted to recoup costs of abatement of personal property in violation of the county's rules and regulations, but violators are successfully avoiding paying abatement costs due to court rulings that declare that counties do not have the authority to abate personal property and then recoup abatement costs by attaching a lien to the real property where the violation occurred.

Local Fiscal Effect: Allegany County expenditures could increase to abate violations of rules and regulations regarding junkyards from costs associated with removal and disposal of refuse. The precise amount of expenditures is unknown, as it would depend on the number of abatements in the county each year. Allegany County advises, however, that they estimate there will be two to three abatements per year, at a total cost of approximately \$5,000 to \$6,000. Allegany County revenues would increase, however, since the county would be able to recover expenses related to the abatement, from the owner of the real property where the violation occurred. Therefore, the bill's net impact would be neutral.

Additional Information

Prior Introductions: HB 417 of 2004, an identical bill, passed the House, but was never reported out of the Senate Education, Health, and Environmental Affairs Committee.

Cross File: None.

Information Source(s): Allegany County, Department of Legislative Services

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n/hlb

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