

HOUSE BILL 403

L1

71r1555

By: **Allegany County Delegation**

Introduced and read first time: February 2, 2007

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: February 27, 2007

CHAPTER _____

1 AN ACT concerning

2 **Allegany County – Junkyard Ordinance – Appearances at Trial**

3 FOR the purpose of providing that, in Allegany County, during a prosecution for a
4 certain civil infraction related to junkyards, the presence of the State's Attorney
5 is not required if a certain official who issued the citation for the infraction is
6 present on behalf of the county; and generally relating to the enforcement of the
7 junkyard ordinance in Allegany County.

8 BY repealing and reenacting, without amendments,
9 Article 25 – County Commissioners
10 Section 122A
11 Annotated Code of Maryland
12 (2005 Replacement Volume and 2006 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article 25B – Home Rule for Code Counties
15 Section 13C(o)
16 Annotated Code of Maryland
17 (2005 Replacement Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article 25 – County Commissioners**

4 122A.

5 (a) The county commissioners or county council of each county in the State
6 may adopt and promulgate rules and regulations for the licensing, control, location
7 and maintenance within their respective limits of junkyards, public or private dumps,
8 automobile junkyards, automotive dismantler and recycler facilities, scrap metal
9 processing facilities, or outdoor places where old motor vehicles are stored in quantity
10 or dismantled, and lots on which refuse, trash or junk is deposited.

11 (b) Any such rules and regulations shall be framed and designed to protect
12 the residents of the county from unpleasant and unwholesome conditions and
13 neighborhoods, to preserve the beauty and esthetic value of rural or residential areas,
14 to safeguard the public health and welfare, to promote good civic design, and to
15 promote the health, safety, morals, order, convenience and prosperity of the
16 community.

17 (c) The rules and regulations may include a requirement that such a
18 junkyard, facility, or dump may not be maintained or operated within the county
19 limits until an annual license therefor has been obtained from the county
20 commissioners or county council, at such reasonable fee as may be specified in the
21 rules and regulations.

22 (d) Prior to the adoption of any such rules and regulations, due notice of their
23 consideration shall be given in some newspaper of general circulation in the county, in
24 a notice published once a week for not less than four successive weeks. The notice
25 shall specify a time and place at which the county commissioners or county council will
26 conduct a public hearing on the contents and adoption of the rules and regulations;
27 and the rules and regulations are not valid unless the public hearing actually is held
28 as advertised.

29 (e) (1) Except as provided in paragraph (2) of this subsection, a violation
30 of any such rule or regulation, including the maintenance or operation of any such
31 junkyard, facility, or dump without a license, is a misdemeanor, subject upon
32 conviction to a fine of not less than twenty-five dollars (\$25.00). Each day on which a
33 violation continues is a separate offense.

1 (2) In a county in the Western Maryland class that has adopted code
2 home rule under Article XI–F of the Maryland Constitution, the county commissioners
3 may:

4 (i) Declare a violation of any rule or regulation adopted in
5 accordance with this section to be a civil infraction under Article 25B, § 13C of the
6 Code; or

7 (ii) Abate, or contract for the abatement of, a violation of any
8 rule or regulation adopted in accordance with this section at the expense of the owner
9 of the real property where the violation occurred.

10 **Article 25B – Home Rule for Code Counties**

11 13C.

12 (o) (1) In a proceeding for a civil infraction:

13 (i) Subject to the provisions of [paragraph] **PARAGRAPHS (2)**
14 **AND (3)** of this subsection, the State’s Attorney for a county shall prosecute the civil
15 infraction in the same manner as a violation of the criminal laws of this State; and

16 (ii) The State’s Attorney may enter a nolle prosequi or place the
17 case on the stet docket in the same manner as is now prescribed by law or rule for
18 violation of the criminal laws of this State.

19 (2) (i) Subject to the approval of the county commissioners, the
20 State’s Attorney for a county may designate in writing the county attorney or any
21 assistant county attorney in a county to exercise the power to prosecute civil
22 infractions.

23 (ii) Upon a designation described under this paragraph of the
24 county attorney or any assistant county attorney, the designated county attorney or
25 assistant county attorney shall have, and be authorized to exercise, the power and
26 authority of the State’s Attorney with respect to the prosecution of a civil infraction.

27 **(3) IN ALLEGANY COUNTY, DURING A PROSECUTION FOR A CIVIL**
28 **INFRACTION UNDER ARTICLE 25, § 122A OF THE CODE, THE PRESENCE OF THE**
29 **STATE’S ATTORNEY FOR THE COUNTY IS NOT REQUIRED AT THE TRIAL FOR THE**
30 **CIVIL INFRACTION IF THE OFFICIAL WHO ISSUED THE CITATION FOR THE CIVIL**
31 **INFRACTION IS PRESENT AT THE TRIAL ON BEHALF OF THE COUNTY.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.