

CHAPTER 237

(House Bill 403)

AN ACT concerning

Allegany County – Junkyard Ordinance – Appearances at Trial

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

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

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

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

Article 25 – County Commissioners

122A.

(a) The county commissioners or county council of each county in the State 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.

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

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

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

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

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

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

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

Article 25B – Home Rule for Code Counties

13C.

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

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

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

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

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

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

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

Approved by the Governor, April 24, 2007.