

SENATE BILL 535

L2

11r2142
CF 11r2138

By: **Carroll County Senators**

Introduced and read first time: February 4, 2011

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Carroll County – Abatement of Nuisances**

3 FOR the purpose of altering the number of days' advance notice the County
4 Commissioners of Carroll County must give to an owner or occupant of property
5 before removing a certain nuisance or menace; authorizing a property owner or
6 occupant to file an appeal of a certain determination that a nuisance or menace
7 exists to a certain hearing officer or board of appeals within a certain time after
8 receiving notice of the determination under certain circumstances; requiring a
9 hearing officer or board of appeals to hold a certain hearing and issue a certain
10 written decision on the determination of the existence of a nuisance or menace
11 within a certain period of time after receiving an appeal; providing that a
12 decision of a hearing officer or board of appeals that a nuisance or menace to
13 public health or safety exists for certain reasons is final and binding; altering a
14 provision that limits the removal of weeds on certain property to the removal of
15 weeds on land that is within a certain number of feet from the boundary with
16 residential property and that is used for certain purposes; defining certain
17 terms; making conforming changes; and generally relating to the abatement of
18 nuisances in Carroll County.

19 BY repealing and reenacting, with amendments,
20 The Public Local Laws of Carroll County
21 Section 3–106
22 Article 7 – Public Local Laws of Maryland
23 (2004 Edition and July 2010 Supplement, as amended)

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

26 **Article 7 – Carroll County**

27 3–106.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) **(1)** In this section[,] **THE FOLLOWING WORDS HAVE THE MEANINGS**
2 **INDICATED.**

3 **(2) (I)** **“BONA FIDE AGRICULTURAL PURPOSE” MEANS THE USE**
4 **OF LAND FOR ACTIVE AGRICULTURAL PRODUCTION.**

5 **(II)** **“BONA FIDE AGRICULTURAL PURPOSE” INCLUDES THE**
6 **USE OF LAND FOR:**

7 1. **ACTIVE PLOWING, TILLAGE, CROPPING, SEEDING,**
8 **CULTIVATING, OR HARVESTING OF FOOD, FIBER PRODUCTS, OR SIMILAR**
9 **PRODUCTS;**

10 2. **GROWING SOD PRODUCTS, CHRISTMAS TREES, OR**
11 **OTHER NURSERY PRODUCTS;**

12 3. **ACTIVE GRAZING OR RAISING OF LIVESTOCK;**

13 4. **AQUACULTURE;**

14 5. **BEE PRODUCTION; AND**

15 6. **ORCHARDS.**

16 **(3)** “Notice” means delivering to the owner or occupant of property a
17 written order to abate.

18 **(4)** **“RESIDENTIAL PROPERTY” MEANS ANY LOT OR PARCEL**
19 **OCCUPIED BY A DWELLING WHERE THE DWELLING AREA OR CURTILAGE IS**
20 **WITHIN 500 FEET OF THE BOUNDING PROPERTY LINE.**

21 (b) (1) The County Commissioners may remove any nuisance or menace
22 to the public health or safety arising from the growth of weeds, the accumulation of
23 refuse, an abandoned well, the presence of stagnant water, or the presence of
24 combustible material after [10] **15** days’ advance notice to the owner or occupant of
25 the property upon which the nuisance or menace is found.

26 (2) [The] **EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS**
27 **SECTION, THE** growth of weeds may not constitute a nuisance or menace if [the]:

28 **(I)** **THE** land on which the weeds are growing is being used for
29 a bona fide agricultural purpose; or [if the]

1 **(II) THE** land is owned by the County and is specifically
2 designated as a natural regeneration project area.

3 (3) (i) Notice may be given by personal service or by mail.

4 (ii) If the written order is delivered by mail, notice is effective at
5 the end of the known fifth day after its deposit in the mail to the last known address of
6 the owner or occupant of the property concerned.

7 (4) If both the owner and occupant of property on which a nuisance or
8 menace is found have been notified of a violation of this subsection more than two
9 times within a 12-month period:

10 (i) The continuing growth of weeds, accumulation of refuse,
11 presence of stagnant water, or presence of combustible material shall be considered an
12 ongoing violation; and

13 (ii) [Additional] **EXCEPT AS PROVIDED IN PARAGRAPH (5)**
14 **OF THIS SUBSECTION, ADDITIONAL** notice is not required before the County may
15 take action to abate the nuisance.

16 **(5) (I) WITHIN 10 BUSINESS DAYS AFTER RECEIVING NOTICE**
17 **OF A DETERMINATION THAT A NUISANCE OR MENACE EXISTS, THE PROPERTY**
18 **OWNER OR OCCUPANT MAY FILE AN APPEAL OF THE NUISANCE OR MENACE**
19 **DETERMINATION TO A HEARING OFFICER OR BOARD OF APPEALS APPOINTED BY**
20 **THE COUNTY COMMISSIONERS.**

21 **(II) WITHIN 5 DAYS AFTER RECEIVING THE APPEAL, THE**
22 **HEARING OFFICER OR BOARD OF APPEALS SHALL HOLD A HEARING AND ISSUE A**
23 **WRITTEN DECISION THAT AFFIRMS, MODIFIES, OR OVERTURNS THE**
24 **DETERMINATION OF THE EXISTENCE OF A NUISANCE OR MENACE.**

25 **(III) THE DECISION OF THE HEARING OFFICER OR BOARD OF**
26 **APPEALS REGARDING THE DETERMINATION OF THE EXISTENCE OF A NUISANCE**
27 **OR MENACE SHALL BE FINAL AND BINDING.**

28 (c) If the County Commissioners remove any nuisance or menace to the
29 public health or safety as described in subsection (b), the reasonable costs of the
30 removal shall be assessed against the property as a special tax.

31 (d) A property owner aggrieved by the assessment of a special tax against his
32 property, as provided in this section, may petition the County Commissioners for
33 relief. Upon the receipt of a petition, the County Commissioners shall conduct a
34 hearing within 30 days of the receipt to determine the propriety and reasonableness of
35 the assessment. At the hearing, the burden shall be upon the petitioner to show good
36 cause why the assessment should not be made. The assessment shall be added to the

1 annual tax bill against the property to be collected in the same manner as ordinary
2 taxes are collected and subject to the same interest and penalty for nonpayment, as
3 provided by law for the nonpayment of county taxes. The special tax shall constitute a
4 lien against the property from the date of assessment until paid.

5 (e) For properties [larger than 1 acre] **USED FOR BONA FIDE**
6 **AGRICULTURAL PURPOSES**, removal of weeds, as contemplated by this section, shall
7 be limited to the removal of any weeds [within] **ON LAND THAT IS:**

8 (1) **WITHIN** 50 feet of the nearest property lines bounding [the] **A**
9 **RESIDENTIAL** property [on which the weeds are found to constitute a nuisance or
10 menace to the public health or safety]; **AND**

11 (2) (I) **USED FOR A BUFFER, A FENCE LINE, OR FALLOW**
12 **GROUND; OR**

13 (II) **NOT PART OF AN AREA USED FOR ACTIVE**
14 **AGRICULTURAL PRODUCTION.**

15 (f) The determination by the County Health Officer that a nuisance or
16 menace to the public health or safety exists by reason of the growth of weeds,
17 accumulation of refuse, an abandoned well, the presence of stagnant water, or the
18 presence of combustible material shall [be final and] constitute prima facie proof that
19 the nuisance or menace exists. It shall be the duty of the County Health Officer to
20 investigate all complaints of a nuisance or menace to the public health or safety, as
21 described in this section.

22 (g) If for any reason the County Health Officer refuses or fails to investigate
23 a complaint of nuisance due to the growth of weeds, the County may investigate the
24 complaint and may, on a determination that the vegetation is lawn or weeds and is at
25 or exceeds a height of 12 inches, determine the growth to be weeds which constitute a
26 nuisance under the provisions of this section.

27 (h) Lands that are enrolled in a State or Federal program that removes the
28 land from crop production for a specified period of time and that has caused the lands
29 to be established and maintained in plant cover to conserve soil, improve wildlife
30 habitat, or serve other public benefit purposes may not be determined to have on them
31 the growth of weeds for purposes of this section. The responsibility for undesirable
32 plant control of these lands shall be that of the State or Federal agency administering
33 the applicable program.

34 **SECTION 2. AND BE IT FURTHER ENACTED**, That this Act shall take effect
35 October 1, 2011.