

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

House Bill 473

(Delegate S. Robinson, *et al.*)

Environmental Matters

Environment - Landfills and Incinerators - Disposal of Waste

This bill prohibits a person from knowingly disposing of a “covered electronic device” or a printer ink or toner cartridge in a landfill or incinerator.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances, assuming that the prohibition is minimally enforced with existing budgeted resources. However, to the extent that the Maryland Department of the Environment (MDE) decides to prioritize enforcement of the bill’s prohibition in the future, the workload of inspectors may increase significantly, and expenditures could increase to conduct additional inspections or for outreach and education; enhanced enforcement of the bill may also result in an increase in nonbudgeted expenditures for the Maryland Environmental Service (MES).

Local Effect: Local government workloads and expenditures are impacted; however, the extent of this impact cannot be reliably estimated due in part to uncertainty regarding enforcement and implementation of the bill. Local government expenditures may increase significantly if local landfills and incinerators significantly alter their operations to fully implement the bill’s prohibition. Local government revenues are minimally affected as a result of changes in the amount of solid waste disposal fees collected and due to any revenues from the sale of recyclable materials. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Potential meaningful beneficial impact on small businesses engaged in the reuse or recycling of electronics. The bill’s prohibition could result in an increase in the demand for their services. Small businesses that have surplus electronics, on the other hand, could be negatively affected to the extent the bill’s prohibition results in an increase in disposal costs.

Analysis

Current Law: Chapter 384 of 2005 established a pilot Statewide Computer Recycling Program administered by the Office of Recycling within MDE. Beginning January 1, 2006, specified computer manufacturers were prohibited from selling a new computer in the State unless the manufacturer registered with MDE and paid a registration fee. Chapter 384 also established an incentive for counties to address computer recycling in their required county recycling plans.

Chapter 239 of 2007 expanded this program to apply to “covered electronic devices” and increased the initial manufacturer registration fee. A “covered electronic device” is defined under current law to include a computer or video display device with a screen that is greater than four inches measured diagonally. However, a covered electronic device does not include a video display device that is part of a motor vehicle or that is contained within a household appliance or commercial, industrial, or medical equipment.

Chapter 239 also prohibits a retailer from offering for sale a new covered electronic device unless the manufacturer is in compliance with specified labeling and registration requirements of the program. The Comptroller is authorized to assess against any retailer that violates that prohibition a fine of up to \$500 per violation, up to \$5,000 total. At the end of each quarter, the Comptroller must forward all fines to the State Recycling Trust Fund.

The State Recycling Trust Fund is used to provide grants to counties and municipalities to support local recycling activities and now comprises primarily covered electronic device manufacturer registration fees. These grants have helped establish local outreach and education initiatives to promote electronic recycling, including one-day recycling events and, in some cases, curbside collection.

State law specifies several items that are prohibited from disposal in a landfill, including scrap tires, mercuric oxide batteries, infectious waste, and, with certain exceptions, yard waste.

Generally, MDE enforces the laws regulating sanitary facilities such as landfills and incinerators through its authorization to levy administrative penalties of up to \$5,000 per violation and up to \$50,000 total, or to file a civil action including an injunction or a civil penalty of up to \$10,000 per violation. Each day constitutes a separate violation. Criminal penalties also apply.

Background: According to the U.S. Environmental Protection Agency (EPA), consumer electronics comprise 1.3% of the national municipal solid waste stream. MDE advises that, if the same proportion is attributed to Maryland’s solid waste stream, then an

estimated 78,572 tons of consumer electronics are disposed of in Maryland annually. However, MDE advises that, based on its own data, about 11.1% of the estimated consumer electronics in the municipal solid waste stream were recycled in 2009. While similarly reliable data are not available regarding the disposal of ink and toner cartridges, MDE advises that the results of online research indicate that about 70% of ink cartridges and 50% of toner cartridges are not recycled.

In contrast to many environmental laws, electronic recycling in the United States is generally governed by a patchwork of state laws based primarily on promoting voluntary initiatives through incentives and consumer outreach. While there is no federal mandate, in 2007 EPA established a rule designed to ensure that cathode ray tube televisions and other forms of waste are properly accounted for in their disposal, including disposal that occurs in foreign countries. However, EPA, like most states, seeks to promote voluntary industry initiatives such as the Responsible Recycling program and other industry standards that encourage the use of best practices by electronic device manufacturers and the nascent electronic device recycling industry.

According to MDE, as of December 2008, 19 counties and Baltimore City had established permanent electronic device collection facilities, representing 96% of Maryland's population. In a December 2008 report that was required pursuant to Chapter 384 of 2005, MDE recommended that it may be prudent to consider banning the disposal of cathode ray tube monitors and televisions in future years.

State Fiscal Effect: MDE advises that the bill will not likely result in a significant operational or fiscal impact, as it will only require inspectors to monitor for the presence of additional prohibited materials. However, MDE cautions that the bill will be difficult to enforce due to the nature of the items covered by the prohibition, particularly ink and toner cartridges, as well as the difficulty in identifying any person that disposes of the prohibited items in violation of the bill. MDE advises that conducting outreach and education may be the most effective method of implementing the bill, but it assumes that this will be handled by local governments, since counties own and operate the majority of landfills and incinerators in the State.

This estimate assumes no change in MDE enforcement activities as a result of the bill; however, to the extent MDE opts to increase its inspection activities in order to fully enforce the bill's prohibition, inspection workloads, and associated costs increase.

MES, an independent State agency that provides solid waste services, advises that the prohibition will not likely result in a significant impact unless MDE interprets the bill as requiring landfill and incinerator operators to alter their operations. Presumably, however, MES could be affected to the extent MDE increases its inspection activities, thus requiring MES to ensure the bill's disposal ban is met.

The application of existing penalties to the bill's prohibition is not anticipated to materially affect State finances.

Local Fiscal Effect: Despite the difficulties noted by MDE regarding the enforcement and implementation of the bill, expenditures may increase for any local government that alters its solid waste collection, separation, or disposal activities to fully enforce the bill's prohibition. For example, Calvert County advises that expenditures may increase by roughly \$200,000 on an annual basis between fiscal 2012 and 2014 for additional personnel and contractual costs. The City of Frederick advises that it would conduct an outreach initiative to implement the bill at minimal cost, but that if a quality control program were required, costs could increase significantly. Montgomery County advises that the bill is unenforceable as drafted, as it would be difficult to determine if the prohibited items are included in the waste stream. Baltimore City and the City of Havre de Grace, however, both state that the bill will not have an impact and interpret their current electronic recycling efforts as sufficient.

Local government revenues are minimally affected as a result of changes in the amount of solid waste disposal fees collected and due to any revenues from the sale of recyclable materials collected under the bill's prohibition to the extent they can be marketed.

The application of existing penalties to the bill's prohibition is not anticipated to materially affect local finances.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Calvert and Montgomery counties; cities of Baltimore, Frederick, and Havre de Grace; Maryland Department of the Environment; Maryland Environmental Service; North East Maryland Waste Disposal Authority; U.S. Environmental Protection Agency; Inkguides.com; Department of Legislative Services

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