

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 535

(Carroll County Senators)

Education, Health, and Environmental Affairs

Environmental Matters

Carroll County - Abatement of Nuisances

The bill extends the amount of advance notice needed to be given by the Carroll County Commissioners when removing any nuisance or menace to the public health arising from specified circumstances from 10 days to 15 days. The bill also establishes a procedure for a property owner or occupant to appeal a violation. The bill modifies the type of land on which the commissioners may remove weeds.

Fiscal Summary

State Effect: None.

Local Effect: Expenditures may increase due to additional appeals for nuisance violations in Carroll County.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill defines a “*bona fide* agricultural purpose” as the use of land for active agricultural production. *Bona fide* agricultural purpose includes the use of land for (1) active plowing, tillage, cropping, seeding, cultivating, or harvesting of food, fiber products, or similar products; (2) growing sod products, Christmas trees, or other nursery products; (3) active grazing or raising of livestock; (4) aquaculture; (5) bee production; and (6) orchards.

For properties used for *bona fide* agricultural purposes in Carroll County, the county commissioners may only remove any weeds on land that is within 50 feet of the nearest

property lines bounding a residential property and (1) used for a buffer, a fence line, or fallow ground; or (2) not part of an area used for active agricultural production.

Within 10 business days after receiving notice of a determination that a nuisance or menace exists, the property owner or occupant may appeal the decision to a hearing officer or board of appeals appointed by the county commissioners. The hearing officer or board of appeals must hold a hearing and issue a written decision that affirms, modifies, or overturns the initial decision within five days of receiving the appeal. The hearing officer or board of appeals' decision is final and binding.

Current Law/Background: The concept of a “nuisance” originates under common law as something that causes offense, annoyance, trouble, or injury. A private nuisance obstructs the rights of a specific individual or group, while a public nuisance is an act or omission that obstructs, damages, or inconveniences the rights of the community.

There are several types of nuisances which State agencies may abate. Additionally, in Baltimore City and Anne Arundel, Baltimore, Harford, and Prince George’s counties, a community association, State’s Attorney, county attorney, or local city attorney may bring an action to abate a nuisance based on a local code violation. Each county board of health is authorized to adopt and enforce rules and regulations on any nuisance or cause of disease in the county.

Carroll County: In Carroll County, the county commissioners may remove any nuisance or menace to the public health or safety arising from the growth of weeds, the accumulation of refuse, an abandoned well, the presence of stagnant water, or the presence of combustible material after 10 days advance notice to the owner or occupant of the property. However, the growth of weeds is not considered a nuisance if the land is being used for a *bona fide* agricultural purpose or the land is owned by Carroll County and is specifically designated as a natural regeneration project area. For properties larger than one acre, any removal of weeds constituting a nuisance or menace to the public health or safety must be limited to any weeds on land that is within 50 feet of the nearest property lines bounding a property.

If both the owner and occupant of property on which a nuisance or menace is found have been notified of a violation more than two times within a 12-month period, the continuing growth of weeds, accumulation of refuse, presence of stagnant water, or presence of combustible material must be considered an ongoing violation. Additional notice is not required before the county may take action to abate the nuisance. The determination by the county health officer that a nuisance or menace to the public health or safety exists by reason of the growth of weeds, accumulation of refuse, an abandoned well, the presence of stagnant water, or the presence of combustible material is final and constitutes *prima facie* proof that the nuisance or menace exists.

Local Fiscal Effect: The bill allows owners of property with specified nuisance violations to appeal the determination to the Carroll County Commissioners. Carroll County is unable to estimate the number of appeals which will be heard as a result of the new procedure; however, Carroll County advises that because the county health department makes approximately 400 weed nuisance determinations a year, the number of appeals may be significant. An increase in amount of appeals will result in additional staff time and costs.

Additional Information

Prior Introductions: None.

Cross File: HB 826 (Carroll County Delegation) - Environmental Matters.

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

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mc/kdm

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