

HOUSE BILL 546

E1, R4

2lr1421
CF SB 419

By: **Delegate Anderson (By Request – Baltimore City Administration) and Delegates McIntosh and Oaks**

Introduced and read first time: February 3, 2012

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Litter Control Regulations and Penalties**

3 FOR the purpose of clarifying an exception to the prohibition of improper litter
4 disposal relating to disposal in receptacles or containers; altering certain
5 penalties for improper litter disposal based on the amount of litter; requiring a
6 court to notify a person who is convicted of a certain litter disposal offense that
7 the person's driver's license may be suspended; requiring a court to notify the
8 Motor Vehicle Administration of a certain violation involving litter disposal;
9 requiring the Chief Judge of the District Court and the Administrative Office of
10 the Courts, in conjunction with the Administration, to establish certain
11 procedures; changing the name used to cite a violation of the litter control law
12 from "Litter Control Law" to "Illegal Dumping and Litter Control Law"; altering
13 the agency authorized, in Baltimore City, to enforce certain provisions relating
14 to illegal dumping and litter control through the use of surveillance systems;
15 authorizing for a first offense, and requiring for a second or subsequent offense,
16 the Administration to suspend, for a certain period of time, the driver's license
17 of a person who is convicted of a certain litter disposal offense; providing for a
18 certain hearing on the request of a licensee under certain circumstances;
19 altering certain definitions; making certain conforming changes; and generally
20 relating to litter control.

21 BY repealing and reenacting, with amendments,
22 Article – Criminal Law
23 Section 10–110 and 10–112
24 Annotated Code of Maryland
25 (2002 Volume and 2011 Supplement)

26 BY adding to
27 Article – Transportation
28 Section 16–206.2

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2009 Replacement Volume and 2011 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Transportation
5 Section 26–305(a)
6 Annotated Code of Maryland
7 (2009 Replacement Volume and 2011 Supplement)

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

10 **Article – Criminal Law**

11 10–110.

12 (a) (1) In this section the following words have the meanings indicated.

13 (2) “Bi–county unit” means:

14 (i) the Maryland–National Capital Park and Planning
15 Commission; or

16 (ii) the Washington Suburban Sanitary Commission.

17 (3) “Litter” means all rubbish, waste matter, refuse, garbage, trash,
18 debris, dead animals, or other discarded materials of every kind and description.

19 (4) “Public or private property” means:

20 (i) the right–of–way of a road or highway;

21 (ii) a body of water or watercourse or the shores or beaches of a
22 body of water or watercourse;

23 (iii) a park;

24 (iv) a parking facility;

25 (v) a playground;

26 (vi) public service company property or transmission line
27 right–of–way;

28 (vii) a building;

29 (viii) a refuge or conservation or recreation area;

1 (ix) residential or farm property; [or]

2 (x) timberlands or a forest;

3 (XI) TRASH RECEPTACLES NOT PROVIDED FOR PUBLIC USE;

4 OR

5 (XII) PUBLIC TRASH RECEPTACLES CLEARLY MARKED WITH
6 "NO DUMPING PERMITTED".

7 (b) The General Assembly intends to:

8 (1) prohibit uniformly throughout the State the improper disposal of
9 litter on public or private property; and

10 (2) curb the desecration of the beauty of the State and harm to the
11 health, welfare, and safety of its citizens caused by the improper disposal of litter.

12 (c) A person may not:

13 (1) dispose of litter on a highway or perform an act that violates the
14 State Vehicle Laws regarding disposal of litter, glass, and other prohibited substances
15 on highways; or

16 (2) dispose or cause or allow the disposal of litter on public or private
17 property unless:

18 (i) the property is designated by the State, a unit of the State,
19 or a political subdivision of the State for the disposal of litter and the person is
20 authorized by the proper public authority to use the property; [or]

21 (ii) the litter is placed into a litter receptacle or container
22 installed on the property FOR PUBLIC USE; OR

23 (III) THE LITTER IS PLACED IN A PRIVATELY OWNED LITTER
24 RECEPTACLE OR CONTAINER WITH THE CONSENT OF THE LITTER RECEPTACLE
25 OWNER.

26 (d) If two or more individuals are occupying a motor vehicle, boat, airplane,
27 or other conveyance from which litter is disposed in violation of subsection (c) of this
28 section, and it cannot be determined which occupant is the violator:

29 (1) if present, the owner of the conveyance is presumed to be
30 responsible for the violation; or

1 (2) if the owner of the conveyance is not present, the operator is
2 presumed to be responsible for the violation.

3 (e) Notwithstanding any other law, if the facts of a case in which a person is
4 charged with violating this section are sufficient to prove that the person is
5 responsible for the violation, the owner of the property on which the violation allegedly
6 occurred need not be present at a court proceeding regarding the case.

7 (f) (1) A person who violates this section is subject to the penalties
8 provided in this subsection.

9 (2) (i) A person who disposes of litter in violation of this section in
10 an amount not exceeding [100 pounds or 27 cubic feet and not for commercial gain] **1**
11 **POUND** is guilty of a misdemeanor and on conviction is subject to imprisonment not
12 exceeding 30 days or a fine not exceeding \$1,500 or both.

13 (ii) A person who disposes of litter in violation of this section in
14 an amount exceeding [100 pounds or 27 cubic feet, but not exceeding 500 pounds or
15 216 cubic feet, and not for commercial gain is guilty of a misdemeanor and on
16 conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding
17 \$12,500 or both.

18 (iii) A person who disposes of litter in violation of this section in
19 an amount exceeding 500 pounds or 216 cubic feet or in any amount for commercial
20 gain] **1 POUND** is guilty of a misdemeanor and on conviction is subject to
21 imprisonment not exceeding 5 years or a fine not exceeding \$30,000 or both.

22 (3) In addition to the penalties provided under paragraph (2) of this
23 subsection, a court may order the violator to:

24 (i) remove or render harmless the litter disposed of in violation
25 of this section;

26 (ii) repair or restore any property damaged by, or pay damages
27 for, the disposal of the litter in violation of this section;

28 (iii) perform public service relating to the removal of litter
29 disposed of in violation of this section or to the restoration of an area polluted by litter
30 disposed of in violation of this section; or

31 (iv) reimburse the State, county, municipal corporation, or
32 bi-county unit for its costs incurred in removing the litter disposed of in violation of
33 this section.

34 (4) **(I)** [In addition to, or instead of, the penalties provided in
35 paragraphs (2) and (3) of this subsection,] **IF A PERSON IS CONVICTED OF A**

1 VIOLATION UNDER THIS SECTION FOR DISPOSAL OF LITTER IN AN AMOUNT
2 EXCEEDING 1 POUND AND THE PERSON USED A MOTOR VEHICLE IN THE
3 COMMISSION OF THE VIOLATION, the court [may suspend for up to 7 days the
4 license of the person to operate the type of conveyance used in the violation who is
5 presumed to be responsible for the violation under subsection (d) of this section]
6 SHALL:

7 1. NOTIFY THE PERSON THAT THE PERSON'S
8 DRIVER'S LICENSE MAY BE SUSPENDED UNDER § 16-206.2 OF THE
9 TRANSPORTATION ARTICLE; AND

10 2. NOTIFY THE MOTOR VEHICLE ADMINISTRATION
11 OF THE VIOLATION.

12 (II) THE CHIEF JUDGE OF THE DISTRICT COURT AND THE
13 ADMINISTRATIVE OFFICE OF THE COURTS, IN CONJUNCTION WITH THE MOTOR
14 VEHICLE ADMINISTRATION, SHALL ESTABLISH UNIFORM PROCEDURES FOR
15 REPORTING A VIOLATION UNDER THIS PARAGRAPH.

16 (g) A law enforcement unit, officer, or official of the State or a political
17 subdivision of the State, or an enforcement unit, officer, or official of a commission of
18 the State, or a political subdivision of the State, shall enforce compliance with this
19 section.

20 (h) A unit that supervises State property shall:

21 (1) establish and maintain receptacles for the disposal of litter at
22 appropriate locations where the public frequents the property;

23 (2) post signs directing persons to the receptacles and serving notice of
24 the provisions of this section; and

25 (3) otherwise publicize the availability of litter receptacles and the
26 requirements of this section.

27 (i) (1) Fines collected for violations of this section shall be disbursed:

28 (i) to the county or municipal corporation where the violation
29 occurred; or

30 (ii) if the bi-county unit is the enforcement unit and the
31 violations occurred on property over which the bi-county unit exercises jurisdiction, to
32 the bi-county unit.

1 (2) Fines collected shall be used to pay for litter receptacles and
2 posting signs as required by subsection (h) of this section and for other purposes
3 relating to the removal or control of litter.

4 (j) (1) The legislative body of a municipal corporation may:

5 (i) prohibit littering; and

6 (ii) classify littering as a municipal infraction under Article 23A,
7 § 3(b) of the Code.

8 (2) The governing body of Prince George's County may adopt an
9 ordinance to prohibit littering under this section and, for violations of the ordinance,
10 may impose criminal penalties and civil penalties that do not exceed the criminal
11 penalties and civil penalties specified in subsection (f)(1) through (3) of this section.

12 (k) This section may be cited as the "**ILLEGAL DUMPING AND Litter Control**
13 **Law**".

14 10–112.

15 (a) (1) In this section the following words have the meanings indicated.

16 (2) "Department" means the Baltimore City Department of [Public
17 Works] **HOUSING AND COMMUNITY DEVELOPMENT, OR ANOTHER DEPARTMENT**
18 **DESIGNATED BY THE MAYOR OF BALTIMORE CITY.**

19 (3) "Dumping site" means a location in Baltimore City that is:

20 (i) owned by the city or the State; and

21 (ii) identified by the Department as property that has been
22 repeatedly used for the disposal of litter in violation of State law or a local law or
23 ordinance.

24 (4) (i) "Owner" means the registered owner of a motor vehicle or a
25 lessee of a motor vehicle under a lease of 6 months or more.

26 (ii) "Owner" does not include:

27 1. a motor vehicle rental or leasing company; or

28 2. a holder of a special registration plate issued under
29 Title 13, Subtitle 9, Part III of the Transportation Article.

30 (5) "Surveillance image" means an image recorded by a surveillance
31 system:

1 (i) on:

- 2 1. a photograph;
- 3 2. a micrograph;
- 4 3. an electronic image;
- 5 4. videotape; or
- 6 5. any other medium;

7 (ii) showing the front or rear of a motor vehicle, and, on at least
8 one image or portion of the tape, clearly identifying the registration plate number of
9 the motor vehicle; and

10 (iii) showing an individual committing a violation of the State
11 **ILLEGAL DUMPING AND** litter control law or a local law or ordinance relating to the
12 unlawful disposal of litter.

13 (6) “Surveillance system” means a collection of one or more cameras
14 located at a dumping site that produces a surveillance image.

15 (b) This section applies to a violation of the State **ILLEGAL DUMPING AND**
16 litter control law or a local law or ordinance relating to the unlawful disposal of litter
17 that occurs at a dumping site monitored by a surveillance system.

18 (c) The Department may:

19 (1) place surveillance systems at dumping sites; and

20 (2) use surveillance images to enforce the provisions of the State
21 **ILLEGAL DUMPING AND** litter control law or a local law or ordinance relating to the
22 unlawful disposal of litter.

23 (d) (1) Unless the individual committing a violation received a citation
24 from a police officer at the time of the violation, the owner of the vehicle used to
25 commit the violation, or in accordance with subsection (g)(4) of this section, the
26 individual committing the violation, is subject to a civil penalty if the violation and the
27 motor vehicle used to commit the violation are recorded on a surveillance image by a
28 surveillance system while the individual is committing a violation of the State
29 **ILLEGAL DUMPING AND** litter control law or a local law or ordinance relating to the
30 unlawful disposal of litter.

31 (2) A civil penalty under this subsection may not exceed \$1,000.

1 (3) For purposes of this section, the District Court, in consultation
2 with the Department, shall prescribe:

3 (i) a uniform citation form consistent with subsection (e)(1) of
4 this section and § 7–302 of the Courts Article; and

5 (ii) a civil penalty, which shall be indicated on the citation, to be
6 paid by persons who choose to prepay the civil penalty without appearing in District
7 Court.

8 (e) (1) Subject to the provisions of paragraphs (2) through (4) of this
9 subsection, the Department shall mail to the owner liable under subsection (d) of this
10 section a citation that shall include:

11 (i) the name and address of the registered owner of the vehicle;

12 (ii) the registration number of the motor vehicle involved in the
13 violation;

14 (iii) the violation charged;

15 (iv) the location where the violation occurred;

16 (v) the date and time of the violation;

17 (vi) a copy of the surveillance image;

18 (vii) the amount of the civil penalty imposed and the date by
19 which the civil penalty must be paid;

20 (viii) a signed statement by a duly authorized agent of the
21 Department that, based on inspection of surveillance images, the motor vehicle was
22 being used by an individual who was committing a violation of the State **ILLEGAL**
23 **DUMPING AND** litter control law or a local law or ordinance relating to the unlawful
24 disposal of litter;

25 (ix) a statement that surveillance images are evidence of a
26 violation of the State **ILLEGAL DUMPING AND** litter control law or a local law or
27 ordinance relating to the unlawful disposal of litter;

28 (x) information advising the person alleged to be liable under
29 this section of the manner and time in which liability as alleged in the citation may be
30 contested in the District Court; and

31 (xi) information advising the person alleged to be liable under
32 this section that failure to pay the civil penalty or to contest liability in a timely
33 manner:

- 1 1. is an admission of liability;
- 2 2. may result in the refusal by the Motor Vehicle
3 Administration to register the motor vehicle; and
- 4 3. may result in the suspension of the motor vehicle
5 registration.

6 (2) The Department may mail a warning notice instead of a citation to
7 the owner liable under subsection (d) of this section.

8 (3) Except as provided in subsection (g)(4) of this section, the
9 Department may not mail a citation to a person who is not an owner.

10 (4) Except as provided in subsection (g)(4) of this section, a citation
11 issued under this section shall be mailed no later than 2 weeks after the alleged
12 violation.

13 (5) A person who receives a citation under paragraph (1) of this
14 subsection may:

15 (i) pay the civil penalty, in accordance with the instructions on
16 the citation, directly to Baltimore City; or

17 (ii) elect to stand trial in the District Court for the alleged
18 violation.

19 (f) (1) A certificate alleging that a violation of the State **ILLEGAL**
20 **DUMPING AND** litter control law or a local law or ordinance relating to the unlawful
21 disposal of litter occurred, sworn to or affirmed by a duly authorized agent of the
22 Department, based on inspection of surveillance images produced by a surveillance
23 system, shall be evidence of the facts contained in the certificate and shall be
24 admissible in a proceeding alleging a violation under this section.

25 (2) Adjudication of liability shall be based on a preponderance of the
26 evidence.

27 (g) (1) The District Court may consider in defense of a violation:

28 (i) subject to paragraph (2) of this subsection, that:

29 1. the motor vehicle was stolen before the violation
30 occurred and was not under the control or possession of the owner at the time of the
31 violation; or

1 2. the registration plates of the motor vehicle were
2 stolen before the violation occurred and were not under the control or possession of the
3 owner at the time of the violation;

4 (ii) subject to paragraph (3) of this subsection, evidence that the
5 person named in the citation was not the person in the surveillance image committing
6 the violation of the State **ILLEGAL DUMPING AND** litter control law or a local law or
7 ordinance relating to the unlawful disposal of litter; and

8 (iii) any other issues and evidence that the District Court deems
9 pertinent.

10 (2) In order to assert a defense under paragraph (1)(i) of this
11 subsection, the owner shall submit proof that a police report regarding the stolen
12 motor vehicle or registration plates was filed in a timely manner.

13 (3) In order to satisfy the evidentiary burden under paragraph (1)(ii)
14 of this subsection, the person named in the citation shall provide to the District Court
15 evidence to the satisfaction of the court of the identity of the person in the surveillance
16 image who was actually committing the violation, including, at a minimum, the
17 person's name and current address.

18 (4) (i) If the District Court finds that the person named in the
19 citation did not commit the violation or receives evidence under paragraph (3) of this
20 subsection identifying the person who committed the violation, the clerk of the court
21 shall provide the Department with a copy of any evidence substantiating who was
22 operating the vehicle at the time of the violation.

23 (ii) On receipt of substantiating evidence from the District
24 Court under subparagraph (i) of this paragraph, the Department may issue a citation
25 as provided in subsection (e) of this section to the person that the evidence indicates
26 committed the violation.

27 (iii) A citation issued under subparagraph (ii) of this paragraph
28 shall be mailed no later than 2 weeks after the receipt of the evidence from the District
29 Court.

30 (h) If the person named in the citation does not pay the civil penalty and does
31 not contest the violation, the Motor Vehicle Administration may:

32 (1) refuse to register the motor vehicle cited in the violation; or

33 (2) suspend the registration of the motor vehicle cited in the violation.

34 (i) A violation for which a civil penalty is imposed under this section:

1 (1) may not be recorded by the Motor Vehicle Administration on the
2 driving record of the owner or the driver of the motor vehicle; and

3 (2) may be treated as a parking violation for purposes of § 26–305 of
4 the Transportation Article.

5 (j) In consultation with the Department, the Chief Judge of the District
6 Court shall adopt procedures for the issuance of citations, the trial of civil violations,
7 and the collection of civil penalties under this section.

8 Article – Transportation

9 16–206.2.

10 (A) SUBJECT TO THE PROVISIONS OF SUBSECTION (B) OF THIS
11 SECTION, ON RECEIPT OF NOTICE DESCRIBED UNDER § 10–110(F) OF THE
12 CRIMINAL LAW ARTICLE THAT AN INDIVIDUAL LICENSED IN THE STATE HAS
13 BEEN CONVICTED OF A VIOLATION UNDER § 10–110 OF THE CRIMINAL LAW
14 ARTICLE FOR DISPOSAL OF LITTER IN AN AMOUNT EXCEEDING 1 POUND AND
15 THE INDIVIDUAL USED A MOTOR VEHICLE IN THE COMMISSION OF THE
16 VIOLATION, THE ADMINISTRATION:

17 (1) FOR A FIRST VIOLATION, MAY SUSPEND THE INDIVIDUAL’S
18 LICENSE FOR UP TO 60 DAYS; AND

19 (2) FOR A SECOND OR SUBSEQUENT VIOLATION, SHALL SUSPEND
20 THE INDIVIDUAL’S LICENSE FOR NO LESS THAN 60 DAYS AND NOT MORE THAN 1
21 YEAR.

22 (B) SUBJECT TO THE PROVISIONS OF TITLE 12, SUBTITLE 2 OF THIS
23 ARTICLE, A LICENSEE MAY REQUEST A HEARING ON A SUSPENSION UNDER THIS
24 SECTION.

25 26–305.

26 (a) The Administration may not register or transfer the registration of any
27 vehicle involved in a parking violation under this subtitle, a violation under any
28 federal parking regulation that applies to property in this State under the jurisdiction
29 of the U.S. government, a violation of § 21–202(h) of this article as determined under §
30 21–202.1 of this article or Title 21, Subtitle 8 of this article as determined under §
31 21–809 or § 21–810 of this article, or a violation of the State **ILLEGAL DUMPING AND**
32 litter control law or a local law or ordinance adopted by Baltimore City relating to the
33 unlawful disposal of litter as determined under § 10–112 of the Criminal Law Article,
34 if:

1 (1) It is notified by a political subdivision or authorized State agency
2 that the person cited for the violation under this subtitle, § 21–202.1, § 21–809, or §
3 21–810 of this article, or § 10–112 of the Criminal Law Article has failed to either:

4 (i) Pay the fine for the violation by the date specified in the
5 citation; or

6 (ii) File a notice of his intention to stand trial for the violation;

7 (2) It is notified by the District Court that a person who has elected to
8 stand trial for the violation under this subtitle, under § 21–202.1, § 21–809, or §
9 21–810 of this article, or under § 10–112 of the Criminal Law Article has failed to
10 appear for trial; or

11 (3) It is notified by a U.S. District Court that a person cited for a
12 violation under a federal parking regulation:

13 (i) Has failed to pay the fine for the violation by the date
14 specified in the federal citation; or

15 (ii) Either has failed to file a notice of the person’s intention to
16 stand trial for the violation, or, if electing to stand trial, has failed to appear for trial.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2012.