

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 1023

(Calvert County Delegation)

Environmental Matters

Education, Health, and Environmental Affairs

Calvert County - Litter Control Law - Local Ordinance

This bill authorizes Calvert County to adopt an ordinance to prohibit littering and, for violations of the ordinance, to impose criminal penalties and civil penalties that do not exceed the specified criminal penalties and civil penalties under State law.

Fiscal Summary

State Effect: The bill is not expected to materially affect governmental finances or operations.

Local Effect: The bill is not expected to materially affect governmental finances or operations.

Small Business Effect: None.

Analysis

Current Law: Under the State's Litter Control Law, a person may not (1) dispose of litter on a highway or perform an act that violates the State Vehicle Laws regarding disposal of litter, glass, and other prohibited substances on highways; or (2) dispose, or cause or allow the disposal of, litter on public or private property unless the property is designated by the State, a unit of the State, or a political subdivision for the disposal of litter and the person is authorized by the proper public authority to use the property, or the litter is placed into a litter receptacle or container installed on the property.

Public or private property means:

- the right-of-way of a road or highway;
- a body of water or watercourse or the shores or beaches of a body of water or watercourse;
- a park;
- a parking facility;
- a playground;
- public service company property or transmission line right-of-way;
- a building;
- a refuge or conservation or recreation area;
- residential or farm property; or
- timberlands or a forest.

If two or more individuals are occupying a motor vehicle, boat, airplane, or other conveyance from which illegal litter is disposed, and it cannot be determined which occupant is the violator, then (1) if present, the owner of the conveyance is presumed to be responsible for the violation; or (2) if the owner of the conveyance is not present, the operator is presumed to be responsible for the violation.

A person who disposes of litter in violation of these provisions in an amount not exceeding 100 pounds or 27 cubic feet and not for commercial gain is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 30 days and/or a fine of \$1,500. A person who disposes of litter in an amount exceeding 100 pounds or 27 cubic feet, but not exceeding 500 pounds or 216 cubic feet, and not for commercial gain is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year and/or a fine of \$12,500. A person who disposes of litter in an amount exceeding 500 pounds or 216 cubic feet or in any amount for commercial gain is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a fine of \$30,000.

In addition to the incarceration and monetary penalties, a court may order the violator to (1) remove or render harmless the litter disposed of; (2) repair or restore any property damaged by, or pay damages for, the disposal of the litter; (3) perform public service relating to the removal of litter or to the restoration of an area polluted by litter; or (4) reimburse the State, county, municipal corporation, or bi-county unit for its costs incurred in removing the litter. In addition to, or instead of these penalties, the court may suspend for up to seven days the license of the person to operate the type of conveyance used in the violation who is presumed to be responsible for any violation involving a conveyance.

Fines collected for Litter Control Law violations must be disbursed in the following manner: (1) to the county or municipal corporation where the violation occurred; or (2) if the bi-county unit is the enforcement unit and the violations occurred on property over which the bi-county unit exercises jurisdiction, to the bi-county unit. Fines collected must be used to pay for required litter receptacles and posting signs and for other purposes relating to the removal or control of litter.

The legislative body of a municipal corporation may prohibit littering and classify littering as a municipal infraction. Prince George's County is authorized to adopt an ordinance to prohibit littering and, for violations of the ordinance, may impose criminal penalties and civil penalties that do not exceed the specified criminal penalties and civil penalties under State law.

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

State and Local Fiscal Effect: A defendant whose actions are prohibited by State and local law or ordinance can be charged only with a violation of either the State law or the local law or ordinance. Moreover, to the extent that Calvert County exercises its authority under the bill to adopt an ordinance to prohibit littering, the county may not impose any penalties that exceed existing penalties under State law. Thus, the bill is not expected to materially affect the amount of fines assessed or the number of persons incarcerated, if any, for violations of prohibitions on littering.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Calvert County, Maryland Department of the Environment, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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mc/kdm

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