

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 483

(Senator Benson, *et al.*)

Education, Health, and Environmental Affairs

Environmental Matters

**Chesapeake and Atlantic Coastal Bays Critical Area - Prohibition - Junk and
Scrap Metal Facilities**

This bill establishes additional requirements for a local jurisdiction's Critical Area program. A local jurisdiction must prohibit locating, in the Critical Area, a junkyard, scrap storage yard, or other scrap metal facility; however, an exemption is provided for the transfer of processed metal to or from a docked vessel or the storage of processed metal for the sole purpose of transfer to a docked vessel. Local jurisdictions must also (1) prohibit, in the Critical Area, any machinery that is used to convert scrap metal into processed metal; and (2) require that any such machinery be removed from the Critical Area by January 1, 2013. Generally, the provisions of the bill apply only prospectively and may not be applied or interpreted to apply to any permit issued for a junkyard, scrap storage yard, or other scrap metal facility in the Critical Area before October 1, 2012. The bill may not be applied or interpreted to apply to any metal temporarily stored at a steel mill that has the capacity to produce at least one million tons of steel in the State annually.

Fiscal Summary

State Effect: The bill does not materially affect State finances.

Local Effect: The bill does not materially affect local finances.

Small Business Effect: Minimal.

Analysis

Current Law: The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays has explicit authority to adopt and amend specified regulations to administer and

enforce the Chesapeake Bay Critical Area Protection Program. The parameters of the commission's regulatory authority include the establishment of comprehensive standards and procedures for buffers, mapping, development, water-dependent facilities, enforcement, growth allocation, the conservation and protection of flora and fauna, and variances, among others. The commission's regulations must provide flexibility wherever possible in order to accommodate variations among local programs.

A local jurisdiction's Critical Area program must contain several elements, including, among others, (1) a map designating the Critical Area; (2) provisions to limit the amount of land covered by buildings, roads, parking lots, or other impervious surfaces and to require or encourage cluster development; (3) requirements for minimum setbacks for structures and septic fields along shorelines; (4) provisions for granting variances; (5) administrative enforcement procedures; and (6) penalty provisions establishing that violators are subject to a fine of up to \$10,000.

Current regulations prohibit specified development activities or facilities in the Critical Area, except in intensely developed areas, and only after the activity or facility has demonstrated that there will be a net improvement in water quality to the adjacent body of water. Prohibited activities or facilities include nonmaritime heavy industry; specified transportation and utility transmission facilities; and permanent sludge handling, storage, and disposal facilities, other than those associated with wastewater treatment facilities. Local jurisdictions may preclude additional development activities that they consider detrimental to water quality or fish, wildlife, or plant habitats within their jurisdictions. Sanitary landfills and solid or hazardous waste collection or disposal facilities are not permitted in the Critical Area, unless no environmentally acceptable alternative location exists or they are required to correct an existing water quality or wastewater management problem.

A junk dealer or scrap metal processor is a person who does business buying or selling articles made of metals and compounds enumerated in State law, including aluminum, brass, bronze, light copper, heavy copper, pewter, nickel, and tin, among others. Current law specifies that junk dealers or scrap metal processors in specified jurisdictions must hold a license when doing business in the State.

Background: Chapter 794 of 1984 established the Chesapeake Bay Critical Area Protection Program in order to minimize damage to water quality and wildlife habitat by fostering more sensitive development activity along the shoreline areas of the Chesapeake Bay and its tributaries. The goals of the program include the protection of water quality, the conservation of habitat, and the accommodation of future growth and development without adverse environmental impacts.

Chapter 794 identified the Critical Area as all land within 1,000 feet of the mean high water line of tidal waters or the landward edge of tidal wetlands and all waters of and lands under the Chesapeake Bay and its tributaries. In 2002, the affected area was expanded to include the State's coastal bays. Under current law, the 1,000-foot wide Critical Area encompasses approximately 680,000 acres (or roughly 11% of the land area in the State) and spans 64 local jurisdictions (16 counties, Baltimore City, and 47 other municipalities). Efforts are underway to develop updated and uniform maps of the Critical Area using modern technology.

The 1984 legislation also created a statewide Chesapeake Bay Critical Area Commission (now called the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays) that oversees the development and implementation of local land use programs dealing with the Critical Area. Each local jurisdiction is charged with the primary responsibility for development and implementation of its own local program; that local authority, however, is subject to commission review and approval.

Baltimore City expressly prohibits junk or scrap storage and yards in the Critical Area, but it provides an exemption for docked vessels similar to the exemption provided in the bill.

Additional Information

Prior Introductions: HB 1259 of 2011, a similar bill, passed the House and received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

Cross File: Although HB 983 (Delegates Frush and Hubbard - Environmental Matters) is designated as a cross file, it is not identical.

Information Source(s): Howard County, Governor's Office of Crime Control and Prevention, Department of Natural Resources, Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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