

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1155

(Prince George's County Delegation)

Environment and Transportation

Judicial Proceedings

Prince George's County – Illegal Disposal of Bulky Items – Penalties PG 418–19

This bill authorizes the governing body of Prince George's County to adopt an ordinance to prohibit the disposal of a "bulky item" on a highway or on public or private property, unless the property is designated by the State, a unit of the State, or a political subdivision of the State for the disposal of bulky items and the person is authorized by the proper public authority to use the property. Violators of the adopted ordinance are guilty of a misdemeanor, punishable by imprisonment for up to 30 days and/or a \$5,000 maximum fine.

Fiscal Summary

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

Local Effect: Minimal increase in revenues and potential minimal increase in expenditures in Prince George's County due to the bill's penalty provisions. To the extent the bill reduces illegal dumping in the county or violators reimburse the county for litter removal costs, local expenditures related to litter removal may decrease. The bill's provisions can be enforced with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: A "bulky item" is any discarded furniture, home or industrial appliance, or abandoned vehicle not designated for disposal purposes under the laws of Prince George's County. The bill contains specified exceptions to the definition of "bulky item."

Current Law: Under § 10-110 of the Criminal Law Article, a person may not (1) dispose of litter on a highway or perform an act that violates the Maryland Vehicle Law 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 meets specified designation requirements 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.

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

An individual who violates § 10-110 is guilty of a misdemeanor and subject to the following penalties, depending on the weight or volume of the disposed litter:

- up to 100 pounds or 27 cubic feet (not for commercial gain) – imprisonment for up to 30 days and/or a \$1,500 maximum fine;
- more than 100 pounds or 27 cubic feet and up to 500 pounds or 216 cubic feet (not for commercial gain) – imprisonment for up to one year and/or a \$12,500 maximum fine; and
- more than 500 pounds or 216 cubic feet (not for commercial gain) or any amount for commercial gain – imprisonment for up to five years and/or a \$30,000 maximum fine.

In addition to these penalties, the court may order the violator to perform relevant community service, reimburse the appropriate governmental entity for specified costs incurred, or perform specified reparative tasks.

Fines collected for violations must be disbursed to the appropriate governmental entity and collected fines must be used to pay for litter receptacles, posting required signs, and for other purposes relating to the removal or control of litter.

The legislative body of a municipality may prohibit littering and classify littering as a municipal infraction under Title 6 of the Local Government Article.

The governing bodies of Calvert, Prince George's, and Montgomery counties may each adopt an ordinance to prohibit littering under § 10-110 and, for violations of the ordinance, may impose criminal penalties and civil penalties that do not exceed the aforementioned criminal penalties and civil penalties.

Prince George's County Code: Section 23-151 of the Prince George's County Code contains several prohibitions on littering. In addition to a civil fine of \$1,000 that may be imposed on a person primarily responsible for the disposal of litter or other specified materials into a public right-of-way, a violator is guilty of a misdemeanor and subject to the following penalties based on the weight or volume of the disposed litter:

- up to 100 pounds or 27 cubic feet (not for commercial gain) – imprisonment for up to 30 days and/or a \$1,000 maximum fine;
- more than 100 pounds or 27 cubic feet and up to 500 pounds or 216 cubic feet (not for commercial gain) – imprisonment for up to one year and/or a \$10,000 maximum fine; and
- more than 500 pounds or 216 cubic feet (not for commercial gain) or any amount for commercial gain – imprisonment for up to five years and/or a \$25,000 maximum fine.

Section 13-265 of the Prince George's County Code also prohibits a person from depositing or placing litter on any land within the county, including public lands or rights-of-way. Violators are subject to a civil fine of \$1,000 for each violation. Each day a violation continues is considered a separate offense. Section 13-265 also contains provisions prohibiting the owner, occupant, or other person responsible for land lying within the unincorporated areas of the county from allowing litter and other materials to accumulate on the land.

Background: Prince George's County advises that the State law and the county ordinance are not being enforced due to the requirement that the litter be weighed or measured for volume. However, the ordinance that Prince George's County is authorized to adopt under the bill is not anticipated to have any such requirements and is intended to increase enforcement.

Local Fiscal Effect: Prince George's County revenues increase minimally from fines imposed under the bill. Prince George's County expenditures may increase minimally if individuals are incarcerated as a result of the bill. Local expenditures for litter removal in Prince George's County may decrease if the county is reimbursed for litter removal costs from individuals convicted of illegal disposal of a bulky item.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Prince George's County; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Budget and Management; Maryland Department of the Environment; Department of General Services; Department of Natural Resources; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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