

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 1381

(Delegate P. Young, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

Environment - Fire-Fighting Training - Oriented Strand Board - Prohibition

This bill prohibits a person from setting oriented strand board on fire or burning oriented strand board for fire-fighting training purposes. “Oriented strand board” is a multilayered board that is (1) made from strands of wood, together with a binder, by the application of heat and pressure, with the strands in the external layer primarily oriented along the strength axis of the panel, as specified, and (2) intended to be used as a covering material for roofs, subfloors, and walls when fastened to supports. A person who violates the bill’s prohibition is subject to a civil penalty of up to \$500 for a first violation and a civil penalty of up to \$1,000 for a second or subsequent violation. The bill does not apply to the manufacture, sale, use, or distribution of products or materials that contain oriented strand board for purposes outside of fire-fighting training purposes.

Fiscal Summary

State Effect: General fund expenditures increase by \$54,000 in FY 2023; future years reflect annualization, inflation, and termination of contractual staff at the end of FY 2025. Potential minimal increase in State expenditures (all/multiple funds) to purchase alternative products and/or dispose of noncompliant oriented strand board (not reflected below). The bill’s penalty provisions are not anticipated to materially affect State finances.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	54,000	54,000	55,500	0	0
Net Effect	(\$54,000)	(\$54,000)	(\$55,500)	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Potential increase in local expenditures to purchase alternative products and/or dispose of noncompliant oriented strand board. Local revenues are not affected.

Small Business Effect: Potential meaningful.

Analysis

Current Law: State law is silent with regard to oriented strand board.

The Code of Maryland Regulations (COMAR 26.11.07) restricts a person from causing or permitting an open fire. According to the Maryland Department of the Environment (MDE), these regulations are part of the State Implementation Plan to achieve National Ambient Air Quality Standards and are federally enforceable. Public officers (the State Fire Marshal or designated local fire marshal or other fire official) are authorized to set an open fire and give permission to set an open fire (with the concurrence of the control officer, which is a local environmental health agency or MDE) if (1) all reasonable means are employed to minimize smoke and (2) the fire is necessary for one of several reasons or purposes, which includes for the instruction of public fire fighters or industrial employees under the supervision of the appropriate fire control officer.

Chapters 276 and 277 of 2020 generally prohibit, beginning October 1, 2021, the use of “Class B fire-fighting foam” that contains intentionally added per- and polyfluoroalkyl substances (PFAS) chemicals for testing purposes, with specified exceptions, or training purposes. Nonfluorinated training foam must be used for fire-fighting training purposes. These Acts do not apply to fire-fighting foams used at BWI Marshall Airport, nor do they restrict (1) the manufacture, sale, or distribution of Class B fire-fighting foam that contains intentionally added PFAS chemicals or (2) the discharge or use of Class B fire-fighting foam that contains intentionally added PFAS chemicals in emergency fire-fighting or fire prevention operations. A person who violates these provisions is subject to a civil penalty of up to \$500 for a first violation and up to \$1,000 for a second or subsequent violation.

State Expenditures:

Maryland Department of the Environment Administrative Costs

General fund expenditures increase by \$54,021 in fiscal 2023, which accounts for the bill’s October 1, 2022 effective date. This estimate reflects the cost of hiring one contractual environmental compliance specialist to (1) conduct outreach to local environmental health agencies, fire stations, and any other affected individuals to inform affected entities about the bill’s prohibition; (2) investigate any complaints; and (3) engage in any related enforcement actions. It includes a salary, fringe benefits, one-time start-up costs (including outreach), and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- according to the Federal Emergency Management Agency, there are 263 registered fire departments in Maryland, and this does not include several hundred fire stations associated with those fire departments; and

- MDE is not generally aware of planned fire-fighting training actions and needs to conduct outreach to inform the regulated community about the bill’s prohibitions.

Contractual Position	1.0
Salary and Fringe Benefits	\$36,098
Outreach Costs	10,105
Other Operating Expenses	<u>7,818</u>
Total FY 2023 MDE Administrative Costs	\$54,021

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

Future year expenditures reflect (1) a full salary with annual increases and employee turnover; (2) annual increases in ongoing operating expenses; and (3) termination of the contractual employee after approximately two and a half years (at the end of fiscal 2025). This estimate assumes that as affected entities become aware of the bill’s prohibition and come into compliance, MDE can handle ongoing enforcement and implementation with existing staff.

Potential Impact on State Agencies That Use Affected Oriented Strand Board for Fire-fighting Training Purposes

To the extent that any State agencies must dispose of existing stock of oriented strand board and purchase alternative products for fire-fighting training purposes, State expenditures may increase minimally. However, the Department of Legislative Services (DLS) is not aware of any State agencies that use affected oriented strand board for fire-fighting training purposes. State agencies contacted for information, including the Department of State Police, the Maryland Aviation Administration, and the Maryland Forest Service, advise that they do not use oriented strand board for fire-fighting training purposes. Accordingly, any effect is speculative.

Local Expenditures: Similar to the State impact described above, to the extent that local governments must purchase alternative products for fire-fighting training purposes and potentially dispose of existing stock of oriented strand board, local expenditures may increase. DLS does not know the extent to which local jurisdictions use oriented strand board for fire-fighting training purposes.

Small Business Effect: Similar to the effects described above regarding potential costs on government agencies resulting from the bill’s prohibition to the extent that a small business conducts fire-fighting training events and must purchase alternative products for fire-fighting training purposes, and potentially dispose of existing stock of oriented strand

board, costs may increase. The bill may also result in a decrease in the demand for oriented strand board that meets the bill's definition, which may affect small businesses that sell and/or manufacture affected oriented strand board. The overall impact on small businesses is unknown.

Additional Comments: A similar bill was passed by the General Assembly of Virginia and approved by the Governor on March 18, 2021.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Talbot and Wicomico counties; Town of Bladensburg; Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; Department of General Services; Department of Natural Resources; Department of State Police; Maryland Department of Transportation; Virginia Legislative Information System; Department of Legislative Services

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