

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1155 (Prince George's County Delegation)
Environment and Transportation

Prince George's County - Illegal Littering - Penalties
PG 418-19

This bill authorizes the governing body of Prince George's County to impose, by ordinance, alternative penalties for violations of the prohibitions on littering under § 10-110 of the Criminal Law Article (Illegal Dumping and Litter Control Law), including additional penalties for disposal of litter within a specified distance of a body of water. The bill also authorizes the Motor Vehicle Administration (MVA) to suspend the license of an individual who is convicted of a violation of § 10-110 that occurred in Prince George's County if the individual operated a motor vehicle during the commission of the violation.

Fiscal Summary

State Effect: Potential minimal increase in Transportation Trust Fund revenues from fees to reinstate suspended licenses. The bill can be enforced with existing budgeted resources. The bill is not expected to materially affect State incarceration expenditures.

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, 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: If the governing body of Prince George's County adopts an ordinance prohibiting littering in violation of § 10-110, the ordinance may impose the following alternative penalties:

- first offense – imprisonment for up to 30 days and/or a \$2,500 maximum fine;
- second offense – imprisonment for up to one year and/or a \$5,000 fine; and
- third or subsequent offense – imprisonment for up to five years and/or a \$15,000 fine.

Consistent with the existing provisions of § 10-110, a violation is classified as a misdemeanor.

The following additional penalties apply if the violation occurs within 100 feet of a river, stream, reservoir, or any other body of water:

- first offense – \$1,000 additional fine;
- second offense – \$2,500 additional fine; and
- third or subsequent offense – \$5,000 additional fine.

On receipt of a notice that an individual licensed to operate a motor vehicle in this State has been convicted of a violation of § 10-110 of the Criminal Law Article that occurred in Prince George's County and used a motor vehicle in the commission of the violation, MVA may suspend the individual's license for up to 60 days for a first offense and for not less than 60 days and not more than one year for a second or subsequent offense. Subject to the provisions of Title 12, Subtitle 2 of the Transportation Article, a licensee may request a hearing on the suspension.

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 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 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.

Section 10-110 does not impose additional penalties for violations that occur near bodies of waterway. The definition of “public or private property” under § 10-110 includes a body of water or watercourse or the shores or beaches of a body of water or watercourse.

If a person is convicted of a violation of § 10-110 and used a motor vehicle in the commission of the violation, the court must notify MVA of the violation. Pursuant to § 16-402 of the Transportation Article, the individual must be assessed two, three, or five points, depending on the weight or volume of litter involved or whether the illegal dumping was for commercial gain. MVA must send a notice of suspension to each individual who has accumulated eight points. An initial suspension is for 2 to 30 days and any subsequent suspension is for 15 to 90 days. The hearing officer may decline to order suspension or modify the suspension if the suspension would adversely affect the current or future employment of the licensee.

A unit that supervises State property must comply with specified requirements pertaining to litter receptacles and notice of the provisions of § 10-110.

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 deposition 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.

Suspended License: A person convicted of possessing a suspended license is guilty of a misdemeanor and is subject to a maximum penalty of two months imprisonment and/or a fine of \$500. Generally, a person convicted of driving a motor vehicle on any highway or property while the driver's license is suspended is guilty of a misdemeanor and is subject to imprisonment for up to one year and/or a \$1,000 maximum fine for a first offense and imprisonment for up to two years and/or a \$1,000 maximum fine for a second or subsequent offense. However, for license suspensions imposed under specified provisions of the Transportation Article, the maximum penalty for operating a motor vehicle with a suspended driver's license is \$500.

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

Fiscal Note History: First Reader - March 14, 2019
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