

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1032 (Delegate Smith, *et al.*)
Environment and Transportation

**Solid Waste Management - Refuse Disposal Systems - Incinerators, Scrap Tires,
and Local Authority**

This bill prohibits the Secretary of the Environment from issuing a permit to install, materially alter, or materially extend an incinerator for disposal of a solid waste stream. The bill also (1) prohibits a person from incinerating scrap tires; (2) prohibits a person from storing scrap tires in the State to be used as fuel in an approved resource recovery incinerator or as a tire-derived fuel in an approved facility; (3) requires the Maryland Environmental Service (MES) to modify its scrap tire recycling system to prioritize entities that use scrap tires for retreading; and (4) prohibits MES from including approved facilities that use tires as a fuel substitute or as a tire-derived fuel in its scrap tire recycling system. A political subdivision may adopt an ordinance, resolution, law, or rule to regulate refuse disposal systems or solid waste if the rules are as stringent as those developed by the Maryland Department of the Environment (MDE) under provisions that govern the regulation of water, ice, and sanitary facilities, as amended by the bill.

Fiscal Summary

State Effect: Potential significant increase in State expenditures related to waste disposal. State revenues are not directly affected, but nonbudgeted revenues for MES likely increase due to an increase in MES expenditures for the disposal of scrap tires.

Local Effect: Potential significant increase in local expenditures for waste disposal and to amend county solid waste and recycling plans. Potential significant decrease in local revenues from the closure of locally owned/operated incinerators. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Bill Summary/Current Law:

Disposal, Storage, and Processing of Scrap Tires

Under current law, the Secretary of the Environment may not issue a permit to install, materially alter, or materially extend an incinerator for disposal of a solid waste stream *unless the county where the proposed incinerator is to be installed, materially altered, or materially extended has a specified recycling plan*. The bill repeals this exemption; thus, the Secretary of the Environment is prohibited from issuing such a permit.

Under current law, a person may not store scrap tires in the State unless the person demonstrates to MDE's satisfaction that, within 90 days, the scrap tires will be (1) returned to the marketplace; (2) used as fuel in an approved resource recovery incinerator; (3) used as a tire-derived fuel in an approved facility; or (4) transferred, by means of a scrap tire hauler, to any facility within MES's scrap tire recycling system. The bill repeals the second and third options related to using scrap tires as fuel. In addition, under the bill, a person who stores scrap tires may not return scrap tires to the marketplace for use as artificial turf.

Under current law, MES must establish a scrap tire recycling system that includes scrap tire collection facilities, scrap tire haulers, and, in the following order of priority: (1) scrap tire recyclers; and (2) an approved resource recovery facility that uses tires as a fuel substitute or an approved facility that uses tires as a tire-derived fuel. The bill requires MES' scrap tire recycling system to first prioritize entities that use scrap tires for tire retreading. In addition, the bill repeals the second option under current law related to using scrap tires in an approved facility as a fuel substitute or as a tire-derived fuel. MES' scrap tire recycling system is funded with special funds from the State Used Tire Cleanup and Recycling Fund; revenue for that fund is generated by a tire recycling fee.

Under current law, a person is generally prohibited from incinerating scrap tires, except in (1) an approved resource recovery facility that uses tires as a fuel substitute or (2) an approved facility that uses tires as a tire-derived fuel. A facility that processes scrap tires for use as a fuel in an incinerator, boiler, or resource recovery facility or a facility that burns or incinerates scrap tires may only be approved or licensed if (1) there is no reasonable and economically available opportunity to process the tires and return them to the marketplace for reuse and (2) the burning or incineration meets all federal and State air quality standards. The bill repeals the exceptions to the general prohibition; accordingly, under the bill, a person may not incinerate scrap tires.

Broad Overview of Waste Management and Recycling in the State

The solid waste infrastructure in Maryland consists of both permitted and nonpermitted facilities, and solid waste is managed through a combination of recycling, composting, landfilling, energy recovery, and exporting for disposal or recycling.

Maryland's recycling policy is guided by the Maryland Recycling Act, which sets mandatory recycling rates for State government and local jurisdictions, as well as a voluntary statewide waste diversion goal of 60% and a voluntary statewide recycling goal of 55% by 2020. Each county (including Baltimore City) must prepare a recycling plan that addresses how the jurisdiction will achieve its mandatory recycling rate. The plan must be submitted to MDE's Office of Recycling for approval when the jurisdiction submits its water and sewerage plan at least every 10 years. At least every 2 years, each county must also submit a progress report to MDE, which must include any revision of or amendment to the county plan that has been adopted. These provisions are not changed by the bill.

Background: MDE publishes an annual scrap tire report. According to the 2019 annual report, Maryland generated an estimated 6.1 million scrap tires in fiscal 2019. Of these, 79% were recycled or used as fuel in Maryland and 21% were exported to other states for disposal, recycling, or use as fuel. Maryland's licensed scrap tire facilities processed 8.0 million scrap tires in fiscal 2019, including 4.8 million that were generated in Maryland and 3.2 million that were imported from other states.

State Fiscal Effect: State expenditures (multiple fund types) for solid waste disposal may increase significantly as a result of the closure of incinerators in the State and the bill's changes regarding the disposal of scrap tires. If the scrap tire market does not have the capacity to manage scrap tires because use as fuel or in artificial turf is prohibited, State costs to properly dispose of scrap tires may increase significantly. To the extent this occurs, State costs to clean up scrap tire stockpiles may also increase.

MDE can review and approve any amendments to county solid waste and recycling plans as necessary with existing budgeted resources. Any decrease in MDE's workload from not having to permit incinerator facilities, scrap tire substitute fuel facilities, and/or tire-derived fuel facilities is not expected to materially affect MDE finances.

Because the bill likely results in an increase in scrap tire disposal costs, MES expenditures increase to process and dispose of scrap tires in the State. However, since MES is a fee-for-service entity, these costs are ultimately borne by the various State agencies and local governments that contract with MES for services.

Local Fiscal Effect: Local expenditures for solid waste disposal may increase significantly due to the closure of incinerators in the State once current permits expire.

There are five operating incinerators in the State, including one that is owned by Montgomery County. The Montgomery County Resource Recovery Facility permit expires in 2023. Additionally, local revenues may decrease significantly from foregone tipping fees and other related revenues in Baltimore City from the closure of one incinerator and one waste-to-energy facility.

Baltimore City advises that city waste disposal costs increase significantly and that the closure of the Baltimore Refuse Energy Systems Company (BRESKO) waste-to-energy facility and the Curtis Bay Medical Waste Services Incinerator necessitates expansion of the Quarantine Road landfill sooner than otherwise planned. Overall, Baltimore City estimates that expenditures increase by \$15.7 million in fiscal 2021, by approximately \$9.4 million in fiscal 2022 and 2023, and by at least \$6.2 million in fiscal 2024 and 2025 to expand landfill capacity and for increased waste disposal costs. Additionally, Baltimore City reports that the closure of the incinerators in the city results in a significant decrease in tipping fees and other related revenues.

Harford County estimates that county waste disposal costs increase by \$10 per ton due to the closure of BRESKO and the Montgomery County Resource Recovery Facility.

If a county includes incineration of waste as a strategy in its 10-year county solid waste and recycling plan, the plan may need to be amended to reflect the bill's changes. To the extent that the changes to such plans are relatively minor, and can be accomplished within a county's normal update and review schedule, these costs could be minimal. On the other hand, to the extent that county plans must be revised earlier than they otherwise would be, some counties may need to hire consultants, resulting in additional costs.

Small Business Effect: Waste disposal costs for some small businesses likely increase due to the closure of incinerators in the State and to properly dispose of scrap tires in accordance with the bill's changes. Any business that disposes of and/or processes scrap tires may be negatively affected. To the extent the bill limits the available markets for scrap tires, the bill could negatively affect small business scrap tire haulers, collection facilities, recyclers, and businesses that generate scrap tires. On the other hand, any small business that provides tire retreading services may benefit from additional business under the bill. Further, small businesses that transport waste may benefit from the need to move waste longer distances due to the closure of incinerators in the State.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore City; Harford and Montgomery counties; Maryland Association of Counties; Maryland Environmental Service; Northeast Maryland Waste Disposal Authority; Maryland Municipal League; Maryland Department of the Environment; Department of Legislative Services

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