

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 256

(Senator Hester, *et al.*)

Education, Energy, and the Environment

Health and Government Operations

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 an administrative 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 \$57,100 in FY 2024; future years reflect annualization, inflation, and termination of contractual staff at the end of FY 2026. 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 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	57,100	54,800	55,000	0	0
Net Effect	(\$57,100)	(\$54,800)	(\$55,000)	\$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.

Pursuant to Chapters 138 and 139 of 2022, a person is generally prohibited, beginning January 1, 2024, from using, manufacturing, knowingly selling, offering for sale, or distributing for sale or use Class B fire-fighting foam that contains intentionally added per- and polyfluoroalkyl substances (PFAS) chemicals in the State. However, a person may use, manufacture, sell, offer for sale, or distribute for sale or use Class B fire-fighting foam that contains intentionally added PFAS chemicals in the State under specified, limited circumstances.

State Expenditures:

Maryland Department of the Environment Administrative Costs

General fund expenditures increase by \$57,050 in fiscal 2024, which accounts for the bill's October 1, 2023 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	\$39,761
Outreach Costs	10,105
Other Operating Expenses	<u>7,184</u>
Total FY 2024 MDE Administrative Costs	\$57,050

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 2026). 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. For reference, Prince George’s County estimates that costs increase by approximately \$15,000 each year to purchase alternative materials for fire-fighting training purpose. DLS does not know the extent to which other local jurisdictions use oriented strand board for fire-fighting training purposes.

Small Business Effect: Similar to the potential effects on government agencies described above, 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: Similar legislation has been introduced in the last three years. See HB 1381 of 2022.

Designated Cross File: HB 470 (Delegate Hill, *et al.*) - Health and Government Operations.

Information Source(s): Caroline, Howard, and Prince George's counties; 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; Department of Legislative Services

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