





April 11, 2023

FISCAL AND POLICY NOTE

TO: Jennifer A. Jenkins
Council Administrator

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THRU: Josh Hamlin 
Director of Budget and Policy Analysis

FROM: Alex Hirtle 
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Policy Analysis and Fiscal Impact Statement
CB-037-2023 Illegal Dumping

CB-043-2023 (*proposed by*: Chair Dernoga, at the request of the County Executive)

Assigned to Transportation, Infrastructure, Energy, and Environment (TIEE) Committee

AN ACT CONCERNING ILLEGAL DUMPING for the purpose of authorizing the use of surveillance systems to prosecute, prevent, and deter illegal dumping in order to maintain the health and welfare of the County.

Fiscal Summary

Direct Impact:

Expenditures: Modest additional expenditures.

Revenues: Modest additional revenues possible.

Indirect Impact:

Potentially favorable.

Legislative Summary:

CB-037-2023 was presented by the Chair of the Council at the request of the County Executive on March 14th, 2023, and referred to the Transportation, Infrastructure, Energy and Environment (TIEE) Committee. This bill would allow for the use of surveillance systems to provide evidence of illegal dumping to prosecute violators of the State illegal dumping and litter control law, or local law or ordinance.

Current Law/Background:

Illegal dumping has been a chronic challenge in the County to the extent that a County Environmental Crimes Unit was created in 2018. Consisting of representatives from DoE, Department of Public Works & Transportation, Department of Permitting, Inspections and Enforcement, and the Police Department, the Unit was charged to detect, apprehend, and prosecute illegal dumping violators. DoE reported that success in detecting and prosecuting violators has been limited due to a lack of resources and limited cooperation with the State's Attorney.¹

The County Code outlines illegal dumping (and littering) as violations in Subtitle 13, Division 9, Section 265, which requires property owners to keep their lots clean, and violations for unauthorized disposing litter and bulky trash on properties. Subtitle 23, Division 4, Section 23-150 outlines fines for offenders, both property owners and litterers/illegal dumpers.

Resource Personnel:

- Andrea L. Crooms, Director, Department of the Environment
 - Karen Gooden, Legislative Counsel
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Discussion/Policy Analysis:

What would CB-037-2023 do?

The Bill states the Department of the Environment (DoE) may place surveillance systems at dumping sites, and use images produced by these systems to enforce violations by state and local laws and ordinances of illegal dumping and litter control.

¹ February 2023 Zoom meeting with DoE staff.

The Bill outlines coordination with the District Court and DoE in uniform citation forms and citations. Citations will include the identified owner of the vehicle from said images, the violation charged with its physical location, date and time of the violation, amount of the civil penalty, signed statement by the authorized agent based on the image(s) inspection, and information to the receiver of the citation. A certificate of the alleged violation based on the inspection of surveillance images will be used as admissible evidence.

The legislation also outlines contesting of the violation, including situations of a stolen vehicle, surveillance images, and other evidence related to the violation.

Penalties for a violation under the legislation will not exceed \$1,000. If the penalty is not paid, the Bill notes possible consequences, including Motor Vehicle Administration suspending or not re-registering the vehicle, immobilizing the vehicle with a parking boot, or impoundment.

Potential implementation issues

There are some potential issues with implementation of the Bill's provisions apparent after examining the text. For example, "Owner" is defined as "...the registered owner of a motor vehicle or a lessee of a motor vehicle under a lease of six (6) month or more." Does that mean a violator who leases a car for five days, or even 5 months, is not liable for the violation?

Additionally, if surveillance captures a vehicle's plates but the violator's face is covered, can the County issue a violation to the vehicle owner given their face was concealed? (this situation actually occurred recently with illegal dumping of tires near a police station). The legislation attempts to clarify this by requiring a "Surveillance Image" to: (1) clearly identify the registration plate number of the motor vehicle; and (2) show an individual committing a violation.

There is also the question of violators paying fines as part of doing business: if a frequent violator only gets caught once in every ten transactions, all being profitable actions, will this legislation deter violators to the point of stopping their illegal dumping? The Council may wish to consider whether the civil penalty enforcement mechanism is sufficient to stop these sorts of repeat offenders. The District of Columbia has had some success in jailing offenders and reducing these types of crimes.²

Despite the recent acquisition of new surveillance cameras, it is critical that the County and DoE continue to create partnerships with communities and the police districts that have the higher rates of illegal dumping to curb these crimes- if citizens can observe areas in their communities where frequent dumping occurs, and police can continually monitor these areas, increased convictions can take place with violators to bring the rate of these types of crimes down.

² <https://ggwash.org/view/75183/agencies-across-the-region-are-collaborating-to-stop-illegal-dumping>

Fiscal Impact:

- *Direct Impact*

Enactment of CB-043-2023 should have a modest adverse fiscal impact. The Department of the Environment reports that the real fiscal impact is yet to be determined. If the revenues/fines/restitution are greater than or equal to the costs (of surveillance set up, monitoring contracts [about \$19K/month per camera], citation administration, and capturing overdue fines), the program will have a net positive impact. DoE reports that at this point of time, they really don't have historical data on this. However, they will have one year of the surveillance program in April 2024, and at least 6-9 months of the citation program at that point, and will have a much clearer picture of the costs, and possibly net revenues for the County.

- *Indirect Impact*

Enactment of CB-037-2023 should have notable favorable indirect impacts on the County by reducing the amount of bulk trash that enters and blights the local environment. Reductions could include cleaner waterways, street and road rights-of-way, and cleaner public spaces and private parcels. A cleaner and more aesthetically pleasing environment can raise property values, encourage residents and businesses to move in and remain in the County, and less illegal dumping can help create a healthier environment.

- *Appropriated in the Current Fiscal Year Budget*

Yes.

Effective Date of Proposed Legislation:

The proposed Bill shall be effective forty-five (45) calendar days after it becomes law.

If you require additional information, or have questions about this fiscal impact statement, please reach out to me via phone or email.