

FROM

NAME & TITLE	David E. Scott, P.E., Director
AGENCY NAME & ADDRESS	Department of Public Works 600 Abel Wolman Municipal Building
SUBJECT	CITY COUNCIL BILL 08-0214

CITY of
BALTIMORE
MEMO



DATE: January 23, 2009

TO

The Honorable President and Members
of the Baltimore City Council
c/o Karen Randle
Room 400 - City Hall

I am herein reporting on City Council Bill 08-0214 introduced by Council President Rawlings Blake and Council Members Middleton, Young, Curran, Branch, Holton, Cole, Henry, Reisinger, D'Adamo, Kraft, Spector, Welch, Clarke and Conaway.

The purpose of the Bill is to add to the penalties for and otherwise enhance the enforcement of the provisions governing waste disposal; authorize the Health Commissioner to abate violations and collect costs, expenses, and penalties from the persons responsible; establish a reward program for persons who provide the information that leads to a finding of illegal dumping; require contracts awarded by the City to specify illegal dumping as constituting a breach of contract; conform related provisions; and generally relating to the disposal of waste and other material.

The Department of Public Works formed an Environmental Crimes Unit with personnel from the Police Department to investigate and enforce violations of the City's environmental laws. Illegal dumping has been one of the major violations of interest and has resulted in arrests and prosecutions through the actions of this unit. The work of the Environmental Crimes Unit, issuing civil citations, and the cleaning efforts of the Bureau of Solid Waste have all helped to reduce the blight of illegal dumping and trashing of our City. Offering scheduled bulk trash collection, expanding the hours of the Department's drop-off sites, and encouraging community organizations to schedule the services of the Pitch-in Program, are other ways in which citizens are urged to appropriately dispose of their debris.

City Council Bill 08-0214 proposes to empower the Commissioner of Health to send written notices of violations to offenders, set a period for corrective action, act to abate violations, and issue a civil penalty equal to twice the amount of cost and expenses incurred by the City for resolution of the illegal dumping. The Commissioner would establish an illegal disposal hotline to receive citizen reports of illegal dumping or other violations, and these calls would allow for the callers' anonymity. Should one or more callers provide information that leads to a determination of guilt, issuance of a civil or criminal fine, or any other sanction, the caller or callers would be eligible for a reward equal to 50% of all costs, expenses, and penalties collected under this Subtitle and all fines and penalties collected under Article 1, Subtitles 40 and 41 of the Code. In addition, every contract awarded by the City would include a provision that any violation of Title 7 Subtitle 6 of the Health Code would constitute a breach of the contract.

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This Department supports all collaborative efforts to discourage illegal dumping in Baltimore. However, this Department does have the following concerns regarding the legislation:

- Anonymity may encourage citizens to call and provide information about illegal dumping and expedite discovery of these illegal dumps. However, unless witnessed by a Police Officer or a member of our Environmental Crimes Unit, or unless incriminating evidence is found at the site, fining or prosecuting a violator will be difficult without a witness coming forward.
- Establishing and managing a hotline will carry some unknown cost to establish, maintain, staff, and track calls. Calling 911 to report an illegal dumping violation in progress, or 311 to report an illegal dump, allows callers to report at any time of the day, and callers may remain anonymous.
- Establishing a civil penalty equal to twice the amount of the cost and expense to abate the violation could exceed the maximum allowable fine of \$1,000 (Article II § 48, Baltimore City Charter).
- The City fines and prosecutes violators as a deterrent to others and as a means to recover its costs in abating the financial impact of the violation. Any cash rewards system for reporting illegal dumping, or any other violations of the Code, should only be considered after the City has been fully reimbursed for all expenditures related to the abatement of the illegal act.

The recently enacted Ordinance 08-44 provides that any vehicle used in connection with illegal dumping may be subject to seizure and forfeiture, a significant deterrent to potential violators. With the passage of Ordinance 08-44, §§ 7-616 through 7-624 were added to the Health Code to describe the conditions under which vehicle seizure may occur. While the provisions of Ordinance 08-44 were not law at the time City Council Bill 08-0214 was drafted, any changes to Title 7 of the Health Article that would result from this legislation would require reconfiguring or renumbering to fit appropriately into the Code.

The Department of Public Works respectfully requests consideration of the above concerns regarding City Council Bill 08-0214.



David E. Scott, P.E.
Director

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