



City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland 21202

Legislation Text

File #: 08-0095, Version: 0

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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INTRODUCTORY*
CITY OF BALTIMORE
COUNCIL BILL

Introduced by: Councilmember Young

A BILL ENTITLED

AN ORDINANCE concerning
Illegal Dumping - Forfeiture of Vehicle

FOR the purpose of authorizing the seizure and forfeiture of vehicles used for the illegal disposal of waste or other material; correcting, conforming, and clarifying related language; and generally relating to the prohibited disposal of waste and other material.

BY repealing and reordaining, with amendments

Article - Health
Section(s) 7-601 through 7-610
Baltimore City Revised Code
(Edition 2000)

BY repealing and reordaining, without amendments

Article - Health
Section(s) 7-701
Baltimore City Revised Code
(Edition 2000)

BY adding

Article - Health
Section(s) 7-703
Baltimore City Revised Code
(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Revised Code

Article - Health

Title 7. Waste Control

Subtitle 6. Prohibited Disposal

PART I. SCOPE OF SUBTITLE

§ 7601. "LITTER" EXCLUDED.

THIS SUBTITLE DOES NOT APPLY TO THE DISPOSAL OF "LITTER", AS DEFINED IN SUBTITLE 7 OF THIS TITLE.

§§ 7-602 TO 7-605. {RESERVED}

PART II. PROHIBITED ACTIVITIES

§ 7606. [§ 7601.] In general.

No person may dispose of any waste or other material except:

- (1) in a receptacle and at a location approved by law for waste disposal;
- (2) at a licensed landfill; or
- (3) at any other disposal site authorized by law to receive waste.

§ 7607. [§ 7602.] Disposing of offensive materials.

(a) In general.

No person may dispose of or permit to discharge or flow onto any public or private property, with or without the owner's permission, any liquid or solid matter that is or that, after exposure to the atmosphere or otherwise, is likely to become offensive or otherwise a nuisance.

(b) Illustrations.

This section applies to, among other things, any:

- (1) blood;
- (2) refuse coal oil;
- (3) dead animal or part of an animal;
- (4) domestic or sanitary sewage;
- (5) excrement;

- (6) filth;
- (7) foul or nauseous liquid;
- (8) garbage;
- (9) slaughter house or other trade cleanings;

- (10) stagnant water; or
- (11) offensive matter of any kind.

§ 7608. [§ 7603.] Dumping on public property.

No person may dump or dispose of any wire, glass, nails, garbage, waste, or any other matter in or on any gutter, sidewalk, street, open space, wharf, or other public place.

§ 7609. [§ 7604.] Dumping on private property.

No person may dump or otherwise dispose of any earth, dirt, sand, ashes, gravel, rocks, garbage, waste, or any other matter on any private property without the permission of the property owner or the owner's agent.

§ 7610. [§ 7605.] Burning waste.

No person may burn or cause to be burned any garbage or other waste except as specifically authorized by law.

§§ 7611 [7606] to 7-615 [7607]. {Reserved}

PART II. SEIZURE AND FORFEITURE OF VEHICLES

§ 7616. [§ 7608. Material from] RESPONSIBILITY OF vehicle OWNER.

The registered owner of a vehicle is prima facie responsible for any waste or other material TRANSPORTED IN OR disposed of from that vehicle.

§ 7-617. GROUNDS FOR SEIZURE.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ANY VEHICLE USED FOR OR IN CONNECTION WITH DISPOSING WASTE OR OTHER MATERIAL IN VIOLATION OF THIS SUBTITLE IS SUBJECT TO SEIZURE AND FORFEITURE.

(B) UNLAWFUL POSSESSION OF VEHICLE.

A VEHICLE MAY NOT BE FORFEITED UNDER THIS SUBTITLE SOLELY BECAUSE OF AN ACT OR OMISSION BY A PERSON OTHER THAN THE VEHICLE'S OWNER COMMITTED OR OMITTED WHILE THE VEHICLE WAS UNLAWFULLY IN THAT OTHER PERSON'S POSSESSION.

§ 7-618. SEIZURE BY POLICE.

(A) WHEN WARRANT NOT NEEDED.

A POLICE OFFICER NEED NOT HAVE A WARRANT TO SEIZE A VEHICLE IF:

(1) THE POLICE OFFICER HAS PROBABLE CAUSE TO BELIEVE THE VEHICLE HAS BEEN USED IN VIOLATION OF THIS SUBTITLE; AND

(2) A WARRANT IS NOT CONSTITUTIONALLY REQUIRED UNDER THE CIRCUMSTANCES.

(B) REMOVAL OF VEHICLE.

WHENEVER A POLICE OFFICER SEIZES A VEHICLE UNDER THIS SUBTITLE, THE POLICE OFFICER MAY CAUSE IT TO BE MOVED TO A PLACE DESIGNATED BY THE POLICE COMMISSIONER.

(C) VEHICLE NOT REPLEVIABLE.

A VEHICLE SEIZED UNDER THIS SUBTITLE IS NOT REPLEVIABLE AND REMAINS IN THE CUSTODY OF THE POLICE DEPARTMENT, SUBJECT ONLY TO THE ORDERS AND DECREES OF THE COURT OR OFFICIAL WITH JURISDICTION OVER IT.

§ 7-619. REFERRAL TO SOLICITOR.

(A) POLICE TO REFER CASE.

PROMPTLY AFTER SEIZURE, THE POLICE DEPARTMENT MUST NOTIFY THE CITY SOLICITOR IN WRITING OF THE FACTS AND CIRCUMSTANCES SUPPORTING THE SEIZURE.

(B) SOLICITOR'S REVIEW.

(1) ON RECEIVING THE REPORT, THE SOLICITOR MUST CONDUCT AN INDEPENDENT REVIEW OF THE FACTS AND CIRCUMSTANCES SURROUNDING THE SEIZURE.

(2) IF THE SOLICITOR FINDS SUFFICIENT EVIDENCE THAT THE VEHICLE WAS USED IN VIOLATION OF THIS SUBTITLE, THE SOLICITOR MUST NOTIFY THE VEHICLE'S OWNER, BY REGISTERED OR CERTIFIED MAIL, OF THE SEIZURE AND OF THE CITY'S INTENT TO INSTITUTE FORFEITURE PROCEEDINGS.

(3) IF, ON THE OTHER HAND, THE SOLICITOR FINDS THAT THERE IS INSUFFICIENT EVIDENCE TO PROVE VIOLATION, THE SOLICITOR MUST SURRENDER THE VEHICLE TO THE OWNER ON THE OWNER'S REQUEST.

§ 7-620. FORFEITURE PETITION; NOTICE.

(A) FILING; COPIES TO PARTIES IN INTEREST.

IF THE SOLICITOR DETERMINES THAT THE VEHICLE SHOULD BE FORFEITED, THE SOLICITOR

MUST, WITHIN 90 DAYS AFTER THE SEIZURE OF THE VEHICLE:

- (1) PETITION THE CIRCUIT COURT FOR BALTIMORE CITY IN THE NAME OF THE CITY AGAINST THE VEHICLE, AS DESIGNATED BY MAKE, MODEL, YEAR, AND MOTOR OR SERIAL NUMBER; AND
- (2) AT THE SAME TIME, SEND COPIES OF THE PETITION BY REGISTERED OR CERTIFIED MAIL TO THE OWNER AND ANY KNOWN SECURED PARTY.

(B) CONTENTS.

THE PETITION FOR FORFEITURE MUST CONTAIN:

- (1) THE NAME OF THE REGISTERED OWNERS OF THE VEHICLE;
- (2) THE NAME OF ANY SECURED PARTY WHOSE INTEREST APPEARS AMONG THE RECORDS MAINTAINED BY THE CLERK OF THE CIRCUIT COURT FOR BALTIMORE CITY;
- (3) A STATEMENT OF THE FACTS AND CIRCUMSTANCES SURROUNDING THE SEIZURE OF THE VEHICLE;
- (4) A STATEMENT OF THE SPECIFIC GROUNDS FOR FORFEITURE; AND
- (5) A REQUEST THAT THE VEHICLE BE FORFEITED TO THE CITY.

(C) PUBLICATION OF NOTICE.

- (1) WITHIN 7 DAYS OF THE PETITION'S FILING, THE SOLICITOR MUST PUBLISH NOTICE OF THE SEIZURE AND FORFEITURE PROCEEDING IN 1 OR MORE NEWSPAPERS PUBLISHED IN THE CITY.
- (2) THE NOTICE MUST:
 - (I) STATE THE SUBSTANCE AND OBJECT OF THE FORFEITURE PETITION; AND
 - (II) STATE THAT ANY PERSON CLAIMING AN INTEREST IN THE SEIZED VEHICLE MUST FILE A DEFENSE TO THE PETITION WITHIN 15 DAYS OF THE DATE OF THE NOTICE.

§ 7-621. ANSWER TO PETITION.

(A) WHEN TO BE MADE.

ANY DEFENSE TO THE PETITION MUST BE FILED WITHIN 15 DAYS AFTER PUBLICATION OF THE NOTICE.

(B) HOW TO BE MADE.

- (1) ALL DEFENSES TO A PETITION FOR FORFEITURE MUST BE MADE BY ANSWER.
- (2) THE ANSWER MUST:

(I) COMPLY WITH THE MARYLAND RULES OF PROCEDURE AS TO FORM AND CONTENTS;

(II) BE DIVIDED INTO NUMBERED PARAGRAPHS, EACH CONTAINING A SEPARATE AND DISTINCTIVE AVERMENT; AND

(III) RESPOND TO EACH MATERIAL ALLEGATION CONTAINED IN THE PETITION, SPECIFICALLY ADMITTING, DENYING, OR EXPLAINING THE FACTS ALLEGED, UNLESS THE RESPONDENT IS WITHOUT KNOWLEDGE OR AN ADMISSION OR EXPLANATION WOULD TEND TO INCRIMINATE THE RESPONDENT, IN EITHER OF WHICH EVENTS THE RESPONDENT MUST SO STATE AND THAT STATEMENT WILL OPERATE AS A DENIAL.

(C) EFFECT.

(1) EVERY ALLEGATION IN THE PETITION THAT IS NOT DENIED IN THE ANSWER IS CONSIDERED ADMITTED, EXCEPT AS TO PERSONS UNKNOWN.

(2) NEW OR AFFIRMATIVE MATTER ALLEGED IN THE ANSWER IS CONSIDERED DENIED OR AVOIDED BY THE PETITIONER WITHOUT THE NEED OF ANY REPLICATION, UNLESS THE COURT ORDERS OTHERWISE.

§ 7-622. EARLY RETRIEVAL BY OWNER.

(A) APPRAISAL OF VEHICLE.

(1) IF THE OWNER OF THE SEIZED VEHICLE WANTS TO REPOSSESS IT BEFORE THE PETITION IS DECIDED, THE CLERK OF THE CIRCUIT COURT MUST HAVE AN APPRAISAL MADE.

(2) THE APPRAISAL MUST BE IN WRITING, UNDER OATH, TO THE CLERK OF THE CIRCUIT COURT.

(B) OWNER TO SUBMIT BOND.

(1) WHEN THE APPRAISAL IS FILED, THE OWNER MAY POST A BOND, PAYABLE TO THE CITY, IN AN AMOUNT EQUAL TO:

(I) ALL COURT COSTS THAT MAY ACCRUE; PLUS

(II) THE GREATER OF:

(A) THE APPRAISED VALUE OF THE VEHICLE; OR

(B) \$500.

(2) THE BOND MUST HAVE SECURITY APPROVED BY THE CLERK AND BE CONDITIONED FOR PERFORMANCE ON THE FINAL JUDGMENT OF THE CIRCUIT COURT.

(C) JUDGMENT ON BOND.

IF THE COURT DIRECTS THAT THE VEHICLE BE FORFEITED, JUDGMENT MAY BE ENTERED

AGAINST THE OBLIGORS ON THE BOND, WITHOUT FURTHER OR OTHER PROCEEDING, TO BE DISCHARGED BY THE PAYMENT OF THE APPRAISED VALUE OF THE VEHICLE AND COURT COSTS, ON WHICH JUDGMENT EXECUTION MAY BE ISSUED.

§ 7-623. ORDER OF FORFEITURE.

(A) IN GENERAL.

(1) IF THE COURT DETERMINES THAT THE VEHICLE SHOULD BE FORFEITED, THE COURT MUST ORDER THE VEHICLE FORFEITED TO THE CITY.

(2) IF, HOWEVER, THE COURT DETERMINES THAT THE VEHICLE IS SUBJECT TO A BONA FIDE RECORDED SECURITY INTEREST CREATED WITHOUT THE KNOWLEDGE THAT THE VEHICLE WAS BEING OR WAS TO BE USED IN VIOLATION OF THIS SUBTITLE, THE COURT MUST ORDER THAT THE VEHICLE BE RELEASED WITHIN 5 DAYS TO THE SECURED PARTY OF RECORD.

(B) DISPOSITION OF VEHICLE SUBJECT TO SECURITY INTEREST.

(1) THE SECURED PARTY MUST SELL THE VEHICLE IN A COMMERCIALY REASONABLE MANNER.

(2) ANY SALE ORDERED UNDER THIS SECTION MUST BE MADE FOR CASH AND MUST VEST IN THE PURCHASER A CLEAR AND ABSOLUTE TITLE TO THE VEHICLE.

(3) THE PROCEEDS OF THE SALE MUST BE APPLIED AS FOLLOWS:

(I) TO THE COURT COSTS OF THE FORFEITURE PROCEEDINGS;

(II) TO THE BALANCE DUE TO THE SECURED PARTY, INCLUDING ALL REASONABLE COSTS INCIDENT TO THE SALE;

(III) TO PAYMENT OF ALL OTHER EXPENSES OF THE PROCEEDINGS FOR FORFEITURE, INCLUDING EXPENSES OF SEIZURE, MAINTENANCE, OR CUSTODY; AND

(IV) TO THE GENERAL FUNDS OF THE CITY.

(C) DISPOSITION OF FORFEITED VEHICLE.

ANY VEHICLE THAT HAS BEEN ORDERED FORFEITED TO THE CITY MAY BE:

(1) SOLD AS PROVIDED IN CITY CODE ARTICLE 31, SUBTITLE 31, PART 5; OR

(2) DESTROYED.

(D) PROCEEDS OF BOND.

THE PROCEEDS OF ANY BOND POSTED TO REGAIN POSSESSION OF THE VEHICLE MUST BE APPLIED AS PROVIDED FOR PROCEEDS OF SALE UNDER SUBSECTION (B)(3) OF THIS SECTION.

§ 7-624. ORDER OF RELEASE.

IF, AFTER A FULL HEARING, THE COURT DETERMINES THAT THE VEHICLE SHOULD NOT BE FORFEITED, THE COURT MUST ORDER THE VEHICLE RELEASED.

§ 7625. {RESERVED}

PART III. PENALTIES

§ 7626. [§ 7609.] Enforcement by citation.

(a) In general.

In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of:

- (1) an environmental citation under City Code Article 1, Subtitle 40 {"Environmental Control Board"}; or
 - (2) a civil citation under City Code Article 1, Subtitle 41 {"Civil Citations"}.
- (b) Process not exclusive.

The issuance of a citation to enforce this subtitle does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

§ 7627. [§ 7610.] Penalties.

(a) Basic penalty: \$1,000 and 90 days.

Except as specified in subsection (b) [or (c)] of this section, any person who violates any provision of this subtitle or who authorizes any employee or agent to violate any provision of this subtitle is guilty of a misdemeanor and, on conviction, is subject to ANY ONE OR MORE OF THE FOLLOWING FOR EACH OFFENSE:

- (1) a fine of not more than \$1,000; [or to] AND
 - (2) imprisonment for not more than 90 days [or to both fine and imprisonment for each offense].
- (b) Enhanced penalty: \$1,000 and 12 months.

If the violation entails the disposal of 25 or more pounds of material in any 24-hour period, the penalty for a violation of this subtitle is any one or more of the following for each offense:

- (1) a fine of not more than \$1,000;
- (2) imprisonment for not more than 12 months; [or] AND
- (3) revocation of the privilege of seeking a building permit in the City.

[(c) Penalties inapplicable to littering.

Subsection (a) of this section does not apply to “litter”, as defined in Subtitle 7 of this title.]

Subtitle 7. Littering

§ 7701. “Litter” defined.

“Litter” means to discard or otherwise dispose of, in any way other than as authorized by § 7601 of this title, of small amounts of paper, beverage containers, glass, garbage, or other waste that:

- (1) weigh less than 1 pound;
- (2) comprise less than 1 cubic foot; and
- (3) are not toxic, noxious, or otherwise a threat to the public health or safety.

§ 7703. MATERIAL FROM VEHICLE.

THE REGISTERED OWNER OF A VEHICLE IS PRIMA FACIE RESPONSIBLE FOR ANY LITTER DISPOSED OF FROM THAT VEHICLE.

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.

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