

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 35 (Delegate Foley)
Environment and Transportation

Local Government - Regulatory Powers - Regulation of Tree of Heaven

This bill authorizes the governing body of a county or municipality to regulate (through an ordinance) trees of heaven, including by prohibiting a person from: (1) selling trees of heaven; (2) planting trees of heaven; and (3) allowing trees of heaven to grow on the person’s property. The bill authorizes the governing body of a county or municipality to establish a bounty program to incentivize the removal of trees of heaven. The bill also authorizes the governing body of a county or municipality to provide for the enforcement of an ordinance adopted under the bill by requiring any damages caused by trees of heaven to be mitigated and establishing a civil fine. The bill defines “tree of heaven” as the *Ailanthus altissima* tree species.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: The bill is authorizing in nature. The impact on local government finances depends on the extent to which bounty programs and fines are established, as discussed below.

Small Business Effect: Potential meaningful.

Analysis

Current Law:

Establishment of Lists of Tier 1 and Tier 2 Invasive Plants

Chapter 142 of 2011 required the Secretary of Agriculture to – with the advice of the Invasive Plants Advisory Committee – (1) establish a list of tier 1 plants and tier 2 plants

and (2) establish a procedure for classification or declassification of an invasive plant as a tier 1 invasive plant or a tier 2 invasive plant. “Tier 1 invasive plant” includes invasive plant species that cause or are likely to cause severe harm within the State. “Tier 2 invasive plant” includes invasive plant species that cause or are likely to cause substantial negative impact within the State.

Chapters 551 and 552 of 2022 required the Department of Natural Resources to publish on its website a list of plant species native to the State. The list must identify native plants that may be used and planted as an alternative to the use and planting of tier 2 invasive plants. Additionally, the Secretary of Agriculture must classify as a tier 1 invasive plant or a tier 2 invasive plant each plant identified as invasive in the Plant Invaders of Mid-Atlantic Natural Areas publication issued by the National Park Service and the U.S. Fish and Wildlife Service.

Regulation of Tier 1 and Tier 2 Invasive Plants

In general, a person may not propagate, import, transfer, sell, purchase, transport, or introduce any living part of a tier 1 invasive plant in the State. However, a person may conduct these activities, with prior approval from the Secretary of Agriculture, for the purpose of disposing of, controlling, using for research or educational purposes, or exporting a plant out of the State. These restrictions do not apply to the transfer, lease, sale, or purchase of real property on which an invasive plant is located. In accordance with regulations adopted by the Secretary of Agriculture, a person may not (1) sell or offer for sale at a retail outlet a tier 2 invasive plant unless the retail outlet posts, in a conspicuous manner in proximity to all tier 2 plant displays, a sign identifying the plants as tier 2 plants or (2) provide landscaping services to plant or supply for planting a tier 2 invasive plant unless the person provides to the customer a list of tier 2 invasive plants.

Regulation of Invasive Bamboo

The governing body of a county or municipality may regulate (through an ordinance) invasive bamboo, including prohibiting a person from: (1) selling invasive bamboo; (2) planting invasive bamboo; and (3) allowing invasive bamboo to grow on the property of the person without proper upkeep and appropriate containment measures, including barriers or trenches. The governing body of a county or municipality is also authorized to provide for the enforcement of an ordinance adopted to regulate invasive bamboo by requiring any damages caused by invasive bamboo to be mitigated and establishing a civil fine.

Local Fiscal Effect: To the extent local governments adopt the bounty program authorized by the bill, expenditures may increase to account for administering the program and paying

out bounties. To the extent a local government implements a fine authorized by the bill, local revenues may increase.

Small Business Effect: The bill may have a meaningful impact on small businesses depending upon whether a county or municipal government decides to regulate trees of heaven. Additional local regulations may (1) negatively affect small businesses that incur costs to comply with potential restrictions pertaining to trees of heaven and (2) positively benefit landscaping businesses that are hired to remove or contain trees of heaven.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 266 (Senator Brooks) - Education, Energy, and the Environment.

Information Source(s): Department of Natural Resources; Baltimore County; Frederick County; Montgomery County; Maryland Municipal League; Department of Legislative Services

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