

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 420

(Senator Frosh, *et al.*)

Judicial Proceedings

Judiciary

Crimes - Restricted Firearm Ammunition - Prohibition on Possession and Use

This bill prohibits the possession or use of “restricted firearm ammunition” during and in relation to the commission of a crime. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a fine of \$5,000.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill’s penalty provision. Because the new prohibition is directly linked to possession and use during and in relation to acts already criminalized, the new penalties would lengthen and/or increase, rather than initiate, imprisonment and/or fines.

Local Effect: Minimal increase in local government revenues and expenditures due to the bill’s penalty provision.

Small Business Effect: None.

Analysis

Bill Summary: The bill defines “restricted firearm ammunition” as a cartridge, shell, or other device that is intended for use in a firearm and is:

- coated with or containing, in whole or in part, polytetrafluoroethylene (PTFE) or a similar product;
- coated with a plastic substance and containing a core other than lead or lead alloy; or
- entirely composed of a metal or metal alloy other than lead.

Current Law: The possession or use of any specific type of firearm ammunition during and in relation to the commission of a crime is not now prohibited in Maryland.

Background: The best known brand name of PTFE is Teflon.

A federal ban on armor-piercing ammunition defines the term to mean:

- a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or
- a full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25% of the total weight of the projectile.

The term does not include shotgun shot required by federal or state environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the U.S. Attorney General finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the U.S. Attorney General finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.

According to a variety of sources, several states have statutes restricting various kinds of coating materials. For example:

- North Carolina specifically prohibits a person from importing, manufacturing, possessing, storing, transporting, selling, offering to sell, purchasing, offering to purchase, delivering or giving to another, or acquiring any PTFE-coated bullet.
- PTFE-coated bullets are illegal in Oklahoma under certain circumstances.
- Oregon prohibits the possession of any handgun ammunition that is coated with PTFE while committing or intending to commit a felony.
- South Carolina prohibits ammunition or shells coated with PTFE.
- Virginia bans bullets, projectiles, or other types of ammunition that are coated with or contain PTFE or a similar product while committing or attempting to commit a crime.

Teflon and molybdenum disulfide are used by some ammunition manufacturers as a protective layer against barrel wear. Manufacturers of such ammunition do not agree that such a coating would necessarily increase a bullet's ability to pierce body armor.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalty due to people being committed to State correctional facilities for longer periods of time and potential increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,900 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new State inmate (including variable medical care and variable operating costs) is about \$370 per month. Excluding all medical care, the average variable costs total \$180 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in

a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Additional Information

Prior Introductions: None.

Cross File: HB 490 (Delegate Mitchell, *et al.*) – Judiciary.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Department of Public Safety and Correctional Services, Department of Legislative Services

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mc/lgc

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