

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 885
Judiciary

(Delegate Mitchell, *et al.*)

Vehicle Laws - Equipment - Prohibition on Counterfeit Airbags and Substandard Airbags

This bill prohibits a person from (1) making, distributing, selling, or installing in a vehicle a counterfeit or substandard airbag; (2) selling or installing a device that causes a vehicle's diagnostic system to inaccurately indicate that the vehicle is equipped with a functional airbag when a counterfeit or substandard airbag is installed; and (3) misrepresenting that an airbag is not a counterfeit or substandard airbag. The bill also prohibits a person from assisting or causing another to violate any of these prohibitions, and it further specifies that the prohibitions only apply if a person had actual knowledge, or with reasonable care or diligence should have known, of the violation. A violation is a misdemeanor that carries a maximum penalty of one year imprisonment and/or \$1,000, or, if the violation results in bodily injury or death, the violation is a felony that carries a maximum penalty of five years imprisonment and/or \$5,000.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. The bill can otherwise be enforced with existing resources.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Airbag” is defined as a motor vehicle inflatable occupant restraint system, including all of its component parts, such as sensors, controllers, inflators, and wiring that operates in the event of a crash and is designed in accordance with federal motor vehicle safety standards for the specific make, model, and year of the motor vehicle in which it is or will be installed. “Counterfeit airbag” is defined as an airbag displaying a mark identical or similar to the genuine mark of a motor vehicle manufacturer without authorization of the motor vehicle manufacturer. “Substandard airbag” is defined as a replacement airbag that, as a result of its design or manufacture, fails to provide protection and performance to occupants of the motor vehicle in which it is installed that is substantially similar to that provided by the airbag originally installed in the motor vehicle.

Current Law: The Maryland Vehicle Law does not expressly prohibit the production, sale, or installation of counterfeit or substandard airbags.

Background: On October 12, 2012, the National Highway Traffic Safety Administration (NHTSA) issued a consumer safety advisory to alert vehicle owners and repair professionals to the dangers of counterfeit airbags. NHTSA advises that, while these airbags look nearly identical to certified, original equipment parts, including insignias and brands of major automakers, testing showed consistent malfunctioning of the airbags. These malfunctions ranged from nondeployment to expulsion of metal shrapnel. However, NHTSA announced that it was not aware of any deaths or injuries connected to counterfeit airbags at that time.

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

State Expenditures: General fund expenditures may increase minimally as a result of the bill’s incarceration penalty due to more people being committed to State correctional facilities.

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 may increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures may 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: None.

Information Source(s): Montgomery, Washington, and Worcester counties; Baltimore City; Office of the Attorney General (Consumer Protection Division); Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; State's Attorneys' Association; Maryland Department of Transportation; National Highway Traffic Safety Administration; Department of Legislative Services

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