

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 969

(Senator Brochin)

Judicial Proceedings

Environment and Transportation and
Judiciary

Vehicle Equipment - Counterfeit and Nonfunctional Airbags - Prohibitions

This bill prohibits a person from (1) importing, manufacturing, distributing, selling, or offering for sale a counterfeit or nonfunctional airbag; (2) installing or reinstalling a counterfeit or nonfunctional airbag in a motor vehicle; (3) selling, offering for sale, installing, or reinstalling a device that causes a vehicle's diagnostic system to inaccurately indicate that the vehicle is equipped with a functional airbag when a counterfeit, nonfunctional, or no airbag is installed; or (4) misrepresenting that a counterfeit or nonfunctional airbag is a functional airbag. The bill also prohibits a person from assisting in or causing a violation of any of those prohibitions. The bill's prohibitions only apply if a person knowingly commits the violation. A violation is a misdemeanor that carries a maximum penalty of five years imprisonment and/or a \$5,000 fine.

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 that (1) operates in the event of a crash and (2) 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. “Airbag” includes the cover, sensors, controllers, inflators, wiring, cushion material, and any other component part of an airbag.

“Counterfeit airbag” is defined as a replacement airbag displaying an unauthorized mark identical or substantially similar to the genuine mark of a motor vehicle manufacturer or a supplier of parts to the motor vehicle manufacturer.

“Nonfunctional airbag” is defined as (1) a replacement airbag that has been previously deployed or damaged or has an electrical fault that is detected by the vehicle diagnostic system after the installation procedure is completed or (2) an object, including a counterfeit airbag, intended to deceive a vehicle owner or operator into believing that the object is a functional airbag.

Current Law: The Maryland Vehicle Law does not expressly prohibit the importation, manufacture, distribution, sale, installation, or reinstallation of counterfeit or nonfunctional 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. 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 \$3,300 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 health care costs) is about \$770 per month. Excluding all health care, the average variable costs total \$200 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 had 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 Pretrial Complex, 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: HB 885 of 2013, a similar bill, received a hearing in the House Judiciary Committee, but no further action was taken.

Cross File: HB 1236 (Delegate Valentino-Smith, *et al.*) - Environment and Transportation and Judiciary.

Information Source(s): Maryland Department of Transportation, Department of State Police, Office of the Attorney General, National Highway Traffic Safety Administration, Department of Legislative Services

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