

**Department of Fiscal Services**  
Maryland General Assembly

**FISCAL NOTE**  
**Revised**

House Bill 748 (Delegate Montague, et al.)  
Judiciary

Referred to Judicial Proceedings

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**Trademark Counterfeiting**

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This amended bill establishes the crime of trademark counterfeiting. It prohibits a person from willfully manufacturing, producing, displaying, advertising, distributing, selling, or possessing with the intent to sell or distribute items or services that the person knows are bearing or identified by a counterfeit mark. The bill establishes a two-year statute of limitation for the offense and provides for seizure of the items by law enforcement officers. State or federal registration of intellectual property is prima facie evidence that the intellectual property is a trademark or trade name.

Persons convicted of trademark counterfeiting where the items are valued at over \$1,000 are guilty of a felony and subject to a fine of not more than \$10,000 or imprisonment for not more than 15 years, or both.

Persons convicted of trademark counterfeiting where the items are valued at less than \$1,000 are guilty of a misdemeanor and subject to a fine of not more than \$1,000 or imprisonment for not more than 18 months, or both. Penalties for subsequent convictions of this offense include a fine of not more than \$5,000. Upon conviction for any of these offenses, the defendant is required to transfer all of the items to the owner of the intellectual property.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

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

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**Fiscal Analysis**

**State Revenues:** General fund revenues could increase under the bill's monetary penalty provisions for those cases heard in the District Court, depending upon the number of convictions and fines imposed.

**State Expenditures:** General fund expenditures could increase as a result of the bill's incarceration penalties due to more people being committed to a Division of Correction (DOC) facility and increased payments to counties for reimbursement of inmate costs, depending upon the number of convictions and sentences imposed. Fiscal Services has no data with which to determine how many additional prosecutions and commitments could result from this bill. However, any increase is assumed to be minimal.

Persons serving a sentence longer than 12 months are incarcerated in a DOC facility. In fiscal 1997 the average monthly cost per inmate is estimated at \$1,400.

Persons serving a sentence of 12 months or less are sentenced to a local detention facility. The State reimburses counties for part of their per diem rate after a person has served 90 days. State per diem reimbursements for fiscal 1997 are estimated to range from \$10 to \$48 per inmate depending upon the jurisdiction. Persons sentenced in Baltimore City are incarcerated in the Baltimore City Detention Center (BCDC), a State operated facility. The per diem cost for fiscal 1997 is estimated at \$43 per inmate.

**Local Revenues:** Revenues could increase under the bill's monetary penalty provisions for those cases heard in the circuit courts, depending upon the number of convictions and fines imposed.

**Local Expenditures:** Expenditures could increase as a result of the bill's incarceration penalties depending upon the number of convictions and sentences imposed. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$19 to \$96 per inmate in fiscal 1997.

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**Information Source(s):** Department of Public Safety and Correctional Services (Division of Correction), Department of Fiscal Services

**Fiscal Note History:** First Reader - February 6, 1996

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Revised - House Third Reader - March 28, 1996

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