

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

House Bill 1134 (Delegate Rosenberg)
Judiciary

**Crimes and Punishments - Explosive Materials - Identification and Detection
Taggants**

This bill prohibits the manufacture, design, assemblage, possession, sale, resale, purchase, use, transport, shipping, distribution, or receipt of any explosive materials without identification and detection taggants. Violators are guilty of a felony and subject to maximum penalties of \$10,000 and/or imprisonment of 30 months. Untagged explosive materials are subject to seizure and forfeiture by the State.

The Department of State Police is required to adopt regulations to effectuate and enforce these provisions.

Fiscal Summary

State Effect: Potential indeterminate increase in general fund expenditures due to the bill's penalty provisions. Revenues would not be affected. Enforcement requirements under the bill can be handled with existing budgeted resources.

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

Small Business Effect: Meaningful effect on small businesses as discussed below.

Fiscal Analysis

State Expenditures: The State Police advise that they do not currently have the expertise or ability to perform the regulatory and enforcement functions required by this bill. However, rather than hire and train at least one person to perform the related duties, the State Police has arranged with the State Fire Marshal to "borrow" the necessary expertise. Accordingly, the

regulatory and enforcement requirements of this bill can be handled with the existing budgeted resources of the two agencies pursuant to an agreement on shared resources.

General fund expenditures could increase as a result of the bill's incarceration penalty 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.

Persons serving a sentence longer than one year are incarcerated in a DOC facility. In fiscal 1998 the average monthly cost per inmate is estimated at \$1,500. For illustrative purposes, under the bill's maximum incarceration penalty the average time served would be 15 months. Thus State costs could increase by \$22,500 for each person imprisoned under the bill.

Persons serving a sentence of one year 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 1998 are estimated to range from \$12 to \$42 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 1998 is estimated at \$43 per inmate.

Local Revenues: Revenues could increase under the bill's monetary penalty provision 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 penalty 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 \$23 to \$83 per inmate in fiscal 1998.

Small Business Effect: According to the most recent available federal data, 9,568,200 pounds of explosives were used in Maryland in 1995. They were used primarily in the quarry, construction, and mining industries. It is estimated that most of the explosives businesses in the State would qualify as small businesses, although the number of explosives businesses in the State is unknown.

There remains some debate between the industry and federal officials as to the costs of "tagging" explosives. For instance, industry analysts believe that adding an identification taggant known as *Microtaggant* could double the costs of explosives as well as present safety risks for manufacturers and users. U.S. Bureau of Alcohol, Tobacco, and Firearms (BATF)

officials believe that the industry is overstating these additional costs.

While there have been reports of new technologies that lower costs and maintain safety standards, they have not yet been tested and proven. There are two currently ongoing studies being carried out by federal mandate to examine cost, safety, and other issues related to taggants; one by the National Academy of Sciences and the other by the BATF. Their interim reports are due to be released this year by April 24 and May 24, respectively.

In any event, it is assumed that any additional costs for manufacturing explosives with identification and detection taggants would increase the cost of doing business for manufacturers. The bill requires the effect of higher costs to be considered by the State Police in deciding whether to approve a taggant. Accordingly, while the actual effects of this bill on small businesses depends largely on unknown regulations and approval standards, it should be assumed that higher prices for taggants in this State alone would have a significant negative effect on the competitiveness of the Maryland small business explosives industry.

Information Source(s): Department of State Police, Institute of Makers of Explosives, Department of Fiscal Services

Fiscal Note History: First Reader - February 17, 1997

ncs

Analysis by: Guy G. Cherry

Reviewed by: John Rixey

Direct Inquiries to:

John Rixey, Coordinating Analyst

(410) 841-3710

(301) 858-3710