SB 50

Department of Legislative Services

Maryland General Assembly
2002 Session

FISCAL NOTE
Revised

Senate Bill 50 (Senator Dorman)

Judicial Proceedings Commerce and Government Matters

Vehicle Laws - Dealer - Definition and Penalties

This bill decreases the number of vehicles (from five to three) that a person may offer to sell within a 12-month period before being considered a dealer. The bill establishes a presumption that a person who offers to sell three or more vehicles during any 12-month period acquired the vehicles for resale purposes and places the burden of rebutting the presumption (by a preponderance of evidence) on the vehicle owner. It also increases the penalty for selling vehicles without a dealer's license from a maximum fine of $1,000 and six months in prison to a fine of up to $5,000 and one year imprisonment.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures would increase by $48,400 in FY 2003 for start-up supplies and additional personnel. Future year expenditures reflect annualization and inflation. Potential minimal increase in general fund expenditures due to the bill's penalty provision. Potential minimal increase in revenues from increases in dealer license fees and the bill's increased penalty. It is expected that the bill's provisions could be handled within the existing resources of the court and law enforcement agencies.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
SF Revenue	-	-	-	-	-
SF Expenditure	48,400	43,500	45,600	47,800	50,200
Net Effect	($48,400)	($43,500)	($45,600)	($47,800)	($50,200)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

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

Small Business Effect: Potential minimal. To the extent that the bill eliminates fraudulent car selling practices, vehicle dealers that are small businesses will benefit.

Analysis

Current Law: A person is considered a dealer if the individual offers more than four vehicles for resale within a 12-month period from a fixed location used regularly for the purpose of selling vehicles. Vehicle dealers must obtain and annually renew a license from the Motor Vehicle Administration (MVA) that states the type of vehicles in which the licensee may deal, the locations from which the dealer can sell vehicles, and the make of new vehicles in which the licensee may deal. The dealer must comply with State laws governing sales contracts, including wholesale restrictions, surety bonds, location and service requirements, vehicle shows, advertising practices, and other relevant practice issues.

The MVA may refuse to grant a license or suspend, revoke, or refuse to renew the license of a person if it finds that the person has failed to comply with any of the provisions of the Maryland Vehicle Law relating to the registration of vehicles, certificates of title, and the sale of vehicles, or violated other provisions of Maryland Vehicle Law. Any person convicted of a first offense of operating without a dealer's or salesman's license is subject to a fine of not more than $1,000 or imprisonment up to six months or both. Conviction of a subsequent offense carries a maximum fine of not more than $2,000 or imprisonment for up to one year or both.

Background: State and local law enforcement agencies have been struggling to combat a practice called curbstoning in which unlicensed persons sell used vehicles that are often stolen, untitled, or damaged without collect titling fees or taxes owed to the State. Experts estimate that 80% of the used cars advertised in the classifieds are sold by curbstoners, according to a *Joint Chairmen's Report* issued in 2001 and authored by the MVA, the Attorney General, and the Office of the Comptroller. The MVA advises that it received 65 cases of curbstoning in calendar 2000 and 180 in calendar 2001. The MVA currently employs 40 investigators who are assigned to various types of cases, including curbstoning cases, on an ad hoc basis. The agency has developed public awareness materials and engaged the media to educate consumers about curbstoning.

A customer who buys a car from an unlicensed dealer is often at considerable risk due to unseen mechanical problems, the unavailability of a warranty, and/or the absence of a title. The Attorney General's Office advises that current sanctions are not sufficient to discourage curbstoners, who often flee the area before they are caught.

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

State Expenditures: The MVA advises that it needs four additional investigators to comply with the requirements of the bill, which would cost $121,752 in fiscal 2003. Under the MVA's estimate, equipment and operating costs would be an additional $70,758, for a total of $192,510.

The Department of Legislative Services (DLS) disagrees and advises that one additional investigator could handle any additional curbstoning cases that are expected to be generated as a direct result of the bill.

TTF expenditures could increase by $48,375 in fiscal 2003, which accounts for the bill's October 1, 2002 effective date. This estimate reflects the cost of hiring one investigator to assist the MVA comply with the requirements of the bill and includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses

Salary and Fringe Benefits	$30,686
Automobile Purchase	11,384
Operating Expenses	6,305
Total FY 2003 State Expenditures	**$48,375**

Future year expenditures reflect: (1) a full salary with 3.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Additional personnel may be necessary if the bill generates a greater than expected number of additional curbstoning cases.

General fund expenditures could also increase minimally as a result of the bill's incarceration penalty due to increased payments to counties for reimbursement of inmate costs and more people being committed to Division of Correction (DOC) facilities.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2003 are estimated to range from $10 to $61 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at $1,850 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 DOC inmate (including medical care and variable costs) is $300 per month.

Local Expenditures: Expenditures could increase as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration 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 $20 to $84 per inmate in fiscal 2003.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Transportation (Motor Vehicle Administration), Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2002
lsc/cer Revised - Senate Third Reader - March 19, 2002

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