

Department of Legislative Services

Maryland General Assembly

2002 Session

FISCAL NOTE

Revised

Senate Bill 733

(Senator Miller)

Judicial Proceedings

Judiciary

Crimes - Railroad Trespass

This bill prohibits individuals from riding on the inside or outside of a railroad vehicle or entering or remaining on railroad property unless authorized by law.

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 expenditures due to the bill's penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: This bill prohibits a person from riding on the outside or on the inside of a railroad vehicle, including a flat bed or container without lawful authorization. A violator is guilty of a misdemeanor and subject to imprisonment for up to six months, a maximum fine of \$1,000, or both. The bill provides that, except to cross railroad property at an authorized crossing, a person may not knowingly enter or remain on railroad property without the railroad carrier's consent or other lawful authorization. A violator is guilty of a misdemeanor and subject to imprisonment for up to 30 days, a maximum fine of \$100, or both.

The bill repeals the existing prohibition against being on or in a railroad vehicle or railroad track in the State, which is a misdemeanor, punishable by up to one month imprisonment, a maximum fine of \$25, or both.

The bill does not apply to highway ground transportation or rapid transit operations in metropolitan areas that are not connected to a general railroad system. The bill exempts the following individuals from its provisions:

- a passenger on a railroad vehicle;
- a person who enters railroad property in an emergency to rescue people or animals or remove an imminently dangerous object;
- a person on the station grounds or in the depot to conduct lawful business;
- a person who enters a railroad right-of-way to gain access to his or her owned or leased property, as well as family members, invitees, employees or independent contractors of that person;
- a person who has permission of the railroad carrier to enter the railroad property;
- law enforcement officers, firefighters, or emergency response personnel while on official duty;
- a Maryland Department of Transportation or Department of Labor, Licensing, and Regulation representative while on official duty; and
- a Federal Railroad Administration or National Transportation Safety Board representative while on official duty.

Current Law: A person is prohibited from being in or on a railroad vehicle on a railroad track without complying with the law or the rules of the railroad company. A violator is guilty of a misdemeanor and is subject to imprisonment for up to one month or a maximum fine of \$25 or both.

Statutory provisions on general trespass prohibit a person from entering or trespassing on any private property that contains a conspicuous posting against trespassers. A person may not remain on, enter, or cross over property after proper notification from the owner or the owner's agent not to do so. A violator is guilty of a misdemeanor and subject to a maximum fine of \$500, imprisonment for up to 90 days, or both.

Background: In 1994, Congress passed the Federal Railroad Safety Authorization Act which required the U.S. Department of Transportation Secretary to develop model state legislation addressing trespassing and vandalism of railroad property. The model legislation was to be developed in consultation with state and local governments and railroad carriers. Four regional conferences were held. Model trespass legislation was

developed using the statutes of Rhode Island and Indiana as a foundation. The model legislation does the following:

- makes entering or remaining on a railroad right-of-way or other railroad property a misdemeanor with a maximum \$100 fine, imprisonment for up to 30 days, or both;
- makes stowing away on trains a misdemeanor with a maximum \$1,000 fine, imprisonment for up to six months, or both; and
- specifies the persons authorized by law to be on railroad property and excludes certain railroad property, such as urban rapid transit, from the purview of the legislation.

According to the Federal Railroad Administration, between 1998 and 2001, 1,838 people were killed nationwide as a result of trespassing on railroad property in areas other than highway rail crossings. In 2001, there were 462 fatalities. In Maryland, 26 people were killed between 1998 and 2001. In 2001, the number was 5.

Nationally, between 1998 and 2001, 1,657 people were injured as a result of trespassing on railroad property in areas other than highway rail crossings. In 2001, there were 367 injuries. In Maryland, 18 people were injured due to trespassing between 1998 and 2000. Maryland's information for 2001 is not available. In 2000, there were 5 railroad trespassing injuries in Maryland.

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

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalties due to increased payments to counties for reimbursement of inmate costs and more people being committed to Division of Correction (DOC) facilities. The number of people convicted of this proposed crime is expected to be minimal.

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 penalties. 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: Similar bills, HB 1089 of the 2000 session and HB 474 of the 1999 session, received unfavorable reports from the Judiciary Committee.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services,
Department of Legislative Services

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