

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 194
Judiciary

(Chairman, Judiciary Committee and Delegate Grosfeld)

Judicial Proceedings

Business Regulation - Returnable Container - Warrant

This bill clarifies that in an affidavit to a District Court judge for the purpose of having the judge issue a search warrant, a person or person's agent who has registered a returnable container or returnable textile must state in the affidavit that the person or agent demonstrates probable cause to believe that another has:

- improperly used a registered container by placing contents other than what was delivered inside it or improperly used a registered textile by selling, buying, renting, or otherwise trafficking it;
- willfully defaced, removed, concealed, or destroyed an identifying name, mark, or device on a registered item;
- damaged a registered item; or
- transferred a registered item to a third party without an assignment from or written consent of the registered owner.

Fiscal Summary

State Effect: None. The bill's clarification is not expected to affect State finances.

Local Effect: None -- see above.

Small Business Effect: None.

Analysis

Current Law: In an affidavit to a District Court judge for the purpose of having the judge issue a search warrant, a person or person's agent who has registered a returnable

container or returnable textile must state in the affidavit that the person or agent reasonably believes that another has:

- improperly used a registered container by placing contents other than what was delivered inside it or improperly used a registered textile by selling, buying, renting, or otherwise trafficking it;
- willfully defaced, removed, concealed, or destroyed an identifying name, mark, or device on a registered item;
- damaged a registered item; or
- transferred a registered item to a third party without an assignment from or written consent of the registered owner.

Background: This bill is the result of the work of the Criminal Law Article Code Revision Committee. While revising the criminal laws, the committee encountered issues that were not appropriate for inclusion in the code revision bill because they involved substantive changes to the law. In the revisor's notes to House Bill 11, the bill creating the new Criminal Law Article, the committee recommended that the General Assembly address these issues. This is one of several bills resulting from these recommendations.

The committee noted that the existing statute does not explicitly require probable cause as the standard to be met for the issuance of this particular type of search warrant. A court cannot legally issue a search warrant without a showing of probable cause that a crime has been committed. *Illinois v. Gates*, 462 U.S. 263 (1983).

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State's Attorneys' Association, Department of Legislative Services

Fiscal Note History: First Reader - January 25, 2002
lsc/cer

Analysis by: Debra A. Dickstein

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510