

**Department of Legislative Services**  
Maryland General Assembly  
2002 Session

**FISCAL NOTE**

House Bill 1434 (Delegates Sophocleus and Wood)  
Commerce and Government Matters

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**Vehicle Laws - Unlicensed Dealers**

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This bill makes conducting the business of a motor vehicle dealer without a license an arrestable offense. A person arrested for this offense must be taken before a District Court commissioner and may not be released by the arresting officer. The bill alters the penalty for any person who is convicted of operating without a dealer's license to include a maximum fine of \$5,000 or imprisonment for up to one year or both.

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**Fiscal Summary**

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

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

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:** A person is considered a dealer if the individual offers more than 4 vehicles for resale within a 12-month period from a fixed location used regularly for the purpose of selling vehicles. The definition of a dealer excludes certain persons, such as:

- a licensed auctioneer acting on behalf of a seller, secured party, or owner and where title does not pass to the auctioneer;
- a manufacturer or distributor who sells or distributes vehicles to licensed dealers;

- automotive dismantlers or recyclers in the process of transferring salvage vehicles; or
- a person who sells or disposes of vehicles used for personal or business use and not to avoid requirements of the law.

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, surety bonds, location and service requirements, advertising practices, and other relevant practice issues.

A police officer may arrest a person without a warrant for certain violations of the Maryland Vehicle Law (if committed in the officer's presence), such as driving under the influence of alcohol. A person arrested for specified vehicle violations must be taken without unnecessary delay before a District Court commissioner unless the arresting officer releases the individual upon a written promise to appear for trial.

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. Approximately 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 has stated 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 increased 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 penalty 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 not expected to be significant.

The MVA, which is the lead investigator for curbstoning cases, advises that it issues 30 to 50 citations per year for selling vehicles without a dealer's license. The person who is issued the citation can be arrested under certain circumstances if a police officer is present, such as failure to provide identification or the person is not considered likely to appear for trial. Enforcement varies by jurisdiction.

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.

The Department of Legislative Services notes that the bill could increase the number of people in pretrial detention as it prohibits release by the arresting officer. However, due to the limited number of expected cases, the bill would have minimal or no impact on pretrial operations.

**Local Expenditures:** Expenditures could increase minimally 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.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Transportation (Motor Vehicle Administration), Department of State Police, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - March 14, 2002  
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