

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 304

(Delegate Doory)

(Committee to Revise Article 27 – Crimes and Punishment)

Judiciary

Criminal Law - Counterfeiting - Fines

This bill establishes maximum fines for certain crimes relating to counterfeiting.

Fiscal Summary

State Effect: General fund revenues could increase minimally as a result of the bill's new monetary penalty provisions from cases heard in the District Court. To the extent that fines are levied by courts instead of imprisonment penalties involving a State correctional facility – where that option was not available before – State correctional costs could be reduced.

Local Effect: Revenues could increase minimally as a result of the bill's new monetary penalty provisions from cases heard in the circuit courts. To the extent that fines are levied by courts instead of imprisonment involving a local correctional facility – where that option was not available before – local correctional costs could be reduced.

Small Business Effect: None.

Analysis

Bill Summary: Specifically, the bill:

- establishes a maximum fine of \$10,000 and allows the imposition of a fine and/or the current law imprisonment penalty (a minimum of two years and a maximum of

- ten years) for the current law felony involving counterfeiting and public documents;
- establishes a maximum fine of \$10,000 and allows the imposition of a fine and/or the current law imprisonment penalty (a minimum of two years and a maximum of ten years) for the current law misdemeanor involving counterfeiting and a public seal;
 - establishes a maximum fine of \$10,000 and allows the imposition of a fine and/or the current law imprisonment penalty (a minimum of two years and a maximum of ten years) for the current law misdemeanor involving counterfeiting and the stamp of the Comptroller;
 - establishes a maximum fine of \$10,000 and allows the imposition of a fine and/or the current law imprisonment penalty (a minimum of two years and a maximum of ten years) for the current law felony involving counterfeiting and orders for money or goods;
 - establishes a maximum fine of \$1,000 and allows the imposition of a fine and/or the current law imprisonment penalty (a maximum of one year) for the current law misdemeanor involving the counterfeiting and issuing of tokens.

Current Law: Under the State’s prohibitions relating to counterfeiting, a person may not:

- with the intent to defraud, be involved in the counterfeiting of private instruments and documents (a felony subject to maximum penalties of a fine of \$1,000 and/or imprisonment for ten years);
- with the intent to defraud, issue counterfeit private instruments and documents (felony: \$1,000 and/or ten years);
- knowingly possess counterfeit title to a motor vehicle (misdemeanor: \$1,000 and/or three years);
- knowingly possess, with unlawful intent, or issue counterfeit U.S. currency (misdemeanor: \$1,000 and/or three years);
- with the intent to defraud, be involved in the counterfeiting of specified public documents or print, write, sign, or pass certain similar documents (felony: ten years, with two year minimum);
- commit certain acts relating to making false entries in public records (misdemeanor: \$1,000 and/or three years);
- commit certain acts involving the counterfeiting and use of a public seal (misdemeanor: ten years, with two year minimum – no statute of limitations);
- commit certain acts involving the counterfeiting of the stamp of the State Comptroller (misdemeanor: ten years, with two year minimum – no statute of limitations);

- with the intent to defraud or knowingly and fraudulently, commit certain acts involving counterfeiting of orders for money or goods (felony: ten years, with two year minimum);
- commit certain acts (some knowingly) involving the counterfeiting of a “prescription” (misdemeanor: two years – payment or an offer or promise to pay for a drug, medicine, or alcoholic beverage obtained by a prohibited act is not a defense to the violation);
- willfully be involved in trademark counterfeiting (felony, value at least \$1,000: \$10,000 and/or 15 years; misdemeanor, value less than \$1,000: \$1,000 and/or 18 months for a first violation and \$5,000 and/or 18 months for each subsequent violation; whether a felony or a misdemeanor, all goods must transfer to the owner of the intellectual property; misdemeanor prosecutions must commence with two years; all goods bearing a counterfeit mark are subject to seizure, as specified; and State or federal registration of intellectual property is *prima facie* evidence that intellectual property is a trademark or trade name);
- be involved in the counterfeiting and issuing of tokens without permission (misdemeanor: one year); or
- be involved in the unlawful operation of vending machines or the related manufacture of slugs (misdemeanor: \$500 and/or three months).

Background: The Committee to Revise Article 27 was appointed in 1991 by the Speaker and the President and charged with making both substantive and stylistic changes to the State’s criminal law. The committee is composed of legislators, judges, lawyers representing both defendants and the State, and a victims’ rights representative. In past sessions the committee has successfully sponsored legislation to revise the laws on accessory before and after the fact, arson, assault, benefit of clergy, burglary, destructive devices, disorderly conduct, escape, leased or rented goods, Medicaid fraud, offensive contact, prostitution, robbery, sabotage, trespass, and victims’ rights.

The specific fines for the counterfeiting crimes affected by this bill were proposed under the rationale that the appropriate maximum fine should be calculated by multiplying by \$1,000 the maximum number of years of imprisonment authorized by the current statute.

Additional Information

Prior Introductions: In 2002, HB 665 and SB 757, which would have added and altered fines and penalties for a variety of specified crimes, received unfavorable reports from the House Judiciary Committee and Senate Judicial Proceedings Committee, respectively. The provisions of this bill were contained therein.

Cross File: SB 233 (Senators Stone and Hughes) – Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2003
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Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510