

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 174
Judiciary

(Delegate Boschert)

Vehicle Laws - Signal Preemption Device - Prohibition

This bill prohibits an unauthorized person from possessing, using, knowingly selling, or purchasing a signal preemption device that could change a traffic control signal to green out of sequence.

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 revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: This bill establishes a general prohibition against the possession, use, sale, or purchase of traffic signal preemption devices and specifies those persons who are exempt from the general prohibition and the circumstances under which they are exempt.

Except for an authorized law enforcement agency, fire company, emergency medical service entity, or rescue squad as specified, a person may not use a signal preemption device to alter a traffic control signal on a highway. Except for an authorized law enforcement agency, fire company, emergency medical service entity, rescue squad, or employee or agent of a retailer or manufacturer, as specified, a person may not knowingly

sell a signal preemption device to anyone other than an authorized person. A person may not knowingly sell a signal preemption device or purchase a signal preemption device for any use other than performance of the purchaser's duties relating to law enforcement, fire and rescue, emergency medical services, or retailing or manufacturing, as authorized.

A person who possesses a signal preemption device in violation of the bill's provisions is guilty of a misdemeanor and subject to maximum imprisonment of 90 days or a maximum fine of \$5,000, or both. A person who uses a signal preemption device in violation of the bill's provisions is guilty of a felony and is subject to maximum imprisonment of two years or a maximum fine of \$10,000, or both. If a person uses a signal preemption device in violation of the bill's provisions and that use results in a traffic accident, the person is guilty of a felony, and subject to maximum imprisonment of five years or a maximum fine of \$15,000, or both. If prohibited use of a signal preemption device results in serious bodily injury, the violator is guilty of a felony and subject to maximum imprisonment of 10 years or a maximum fine of \$20,000, or both. If prohibited use of a signal preemption device results in the death of another person, the violator is guilty of a felony and subject to maximum imprisonment of 15 years or a maximum fine of \$25,000, or both. A person who knowingly sells or who purchases a signal preemption device in violation of the bill's provisions is guilty of a felony, and subject to maximum imprisonment of two years or a maximum fine of \$10,000, or both.

Current Law: The Maryland Vehicle Law does not prohibit the possession, use, sale, or purchase of electronic traffic signal preemption devices. However, the Maryland Vehicle Law does provide that a person without lawful authority may not willfully alter any traffic control device or any railroad sign or signal, including any inscription, insignia, or shield. A violation of this provision is a misdemeanor and the violator is subject to maximum imprisonment of two months or a maximum fine of \$500, or both. A person charged with this offense must appear in court and stand trial.

Serious bodily injury means an injury that: (1) creates a substantial risk of death; (2) causes serious permanent or serious protracted disfigurement; (3) causes serious permanent or serious protracted loss of the function of any body part, organ, or mental faculty; or (4) causes serious permanent or serious protracted impairment of the function of any bodily member or organ.

Background: Mobile infrared transmitters, known as "MIRTs," are devices intended to change traffic lights out of sequence. Once the signal is emitted, the traffic signal can change in as little as two seconds. The technology was developed by the 3M Company and sold exclusively to police and fire departments, which have used it for years to clear intersections and halt opposing traffic in emergency situations. A MIRT has a range of about 1,500 feet and sends out an infrared beam.

The cost for a MIRT, as marketed by 3M, starts at about \$1,400, excluding installation. However, with the increasing prevalence of miniaturized electronics, reduced component costs, and advanced lamp technology, other companies have been able to make copycat versions of the MIRT for a much lower cost, usually about \$300 to \$500. These devices are usually sold on the Internet and, as a result, have become available to the general public. Some dealers that sell the device limit sales to small law enforcement and emergency services departments. One company, FAC America, reports that the use of traffic signal preemption equipment has grown beyond emergency personnel to use by mass transit, private detectives, funeral processions, and street maintenance crews.

At this time, neither federal nor state laws ban the manufacture, sale, purchase, or use of MIRTs. While state and local governments are considering legal prohibitions on these devices, the highway departments in many metropolitan areas are also looking into ways to upgrade the receivers on traffic control signals to lock out preemption signals, except for those signals coming from authorized emergency vehicles.

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

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the 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 \$350 per month. Excluding medical care, the average variable costs total \$120 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. 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 2005 are estimated to range from \$14 to \$58 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are

generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalties. Counties pay the full cost of incarceration for people in their facilities 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 \$29 to \$97 per inmate in fiscal 2005.

Additional Information

Prior Introductions: None.

Cross File: None. However, two similar bills, HB 381 and HB 465, have been introduced and referred to the Judiciary Committee.

Information Source(s): Maryland Department of Transportation, FAC America, *The Washington Post*, *The Detroit News*, kenneke.com, Department of Legislative Services

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