

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 767

(Chairman, Judiciary Committee)

(By Request – Departmental – State Police)

Judiciary

Vehicle Laws - Antitheft Provisions - Key Duplication and Possession

This departmental bill requires proper authorization for a person to make a key that can operate the ignition of a motor vehicle, establishes recordkeeping procedures, and establishes a civil penalty for noncompliance. This does not apply to a person who makes a key by duplicating another key. The bill also provides that it is a crime for an individual to unlawfully possess a key to a motor vehicle with the intent to take the vehicle from the owner's control or attempt to duplicate a key to a motor vehicle without authorization and establishes a criminal penalty.

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 provision.

Small Business Effect: The Department of State Police has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary: Any person who makes a key capable of operating the ignition of a motor vehicle, from a key code, impression, or vehicle identification number (VIN), whether or not for compensation, must confirm the vehicle ownership or obtain the

owner's permission to duplicate the keys from the VIN or the key code. The person who makes the key must obtain the signature of the individual for whom the key was made, identifying information about the individual, the vehicle for which the key was made, and the date the key was made. The individual who made the key must also record his/her name. For each key made, the signature, accompanying information, and the work order must be kept for at least two years, as specified in statute, and be available for inspection by the Motor Vehicle Administration (MVA) and/or law enforcement authorities. The provisions of this bill do not apply to the duplication of a vehicle key from an existing key.

A person who does not comply with the provisions of this bill is subject to a civil penalty not exceeding \$500 for a first offense or \$1,000 for a second or subsequent offense.

An individual may not possess a key to the motor vehicle of another individual with the intent to use the key unlawfully. An individual may not attempt to duplicate a key to a motor vehicle without the owner's or lawful possessor's permission. An individual who is convicted of a violation of any of these provisions is subject to a fine of up to \$500, and/or imprisonment not exceeding one year.

Current Law: A person may not knowingly and willfully take a motor vehicle out of the owner's lawful custody, control, or use without the owner's consent. A person who violates this provision is guilty of a felony and is subject to maximum penalties of five years imprisonment and/or a \$5,000 fine. In addition, the violator must restore the motor vehicle, or if unable, pay to the owner the full value of the motor vehicle.

No person may possess a motor vehicle master key adapted for or capable of being used to open or operate any motor vehicle in this State, except a person in lawful pursuit of a legitimate business interest or a law enforcement officer in pursuit of his duties. A violation of this provision is a misdemeanor, and a violator is subject to a maximum fine of \$500 or imprisonment not exceeding one year, or both.

A person convicted of theft of property or services with a value of \$500 or more is guilty of a felony and subject to maximum penalties of imprisonment for 15 years and/or a fine of \$25,000. A person convicted of theft of property or services with a value of less than \$500, is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 18 months and/or a fine of \$500. If the value of the property or services stolen is less than \$100, the person is guilty of a misdemeanor and is subject to maximum penalties of imprisonment for 90 days and/or a fine of \$500. Regardless of value, the convicted person must restore the owner's property or pay the owner for the value of the property or services.

Background: According to the Department of State Police, vehicle theft in Maryland has more than doubled over the past 20 years (1983 – 15,558 – 2003 – 35,628). With the ever increasing state of automotive technology and the advent of “smart” keys that contain “electronic chips” or “transponders” vehicle ignition systems are becoming more difficult to “mechanically” compromise. This has resulted in a growing number of vehicle thefts that are committed by obtaining duplicate keys, primarily through new car dealers. The thief will copy a VIN through the windshield of a car and persuade a dealer to duplicate a key through the ruse of lost keys or locked keys in vehicles. Key duplications also involve unscrupulous employees who conspire with potential vehicle thieves and provide keys for a profit.

This law would provide civil penalties for violations of record keeping, but criminal penalties for duplication of the keys without the owners consent or with the intent to commit motor vehicle theft.

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 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 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 2006 are estimated to range from \$17 to \$65 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 \$310 per month.

Local Expenditures: Expenditures could increase 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 \$33 to \$119 per inmate in fiscal 2006.

Additional Information

Prior Introductions: This bill is similar to SB 342 of 2004, which received an unfavorable report from the Judicial Proceedings Committee. This bill is also similar to HB 1131/SB 719 of 2004. HB 1131 received an unfavorable report from the Judiciary Committee. SB 719 received an unfavorable report from the Judicial Proceedings Committee.

Cross File: None.

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

Fiscal Note History: First Reader - February 28, 2005
ncs/jr

Analysis by: Karen D. Morgan

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