

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 662
Judiciary

(Delegate Frush)

Crimes - Owning, Operating, or Conducting Business with a "Chop Shop" - Penalties

This bill establishes the crime of knowingly owning, operating, or conducting a "chop shop" enterprise, which includes transporting a motor vehicle or a motor vehicle part to or from a chop shop, or selling or transferring a motor vehicle or part to a chop shop, or purchasing or receiving a motor vehicle or part from a chop shop.

A violator is guilty of a felony and subject to maximum penalties of imprisonment for 15 years and/or a fine of \$25,000. In addition to any other legally authorized sentence, a court may require a violator to make restitution.

The bill also authorizes, as specified, seizures and forfeitures related to violations of these provisions. The bill provides for the return of seized property under certain circumstances. The bill allows the sale of forfeited property by court order and requires the court to order a specified distribution of the proceeds of the sale.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. The bill's provisions relating to seizures and forfeitures could be handled with the existing budgeted resources of the State Police and the courts.

Local Effect: Minimal increase in local revenues and expenditures due to the bill's penalty provisions. The bill's provisions relating to seizures and forfeitures could be handled with the existing budgeted resources of local law enforcement and the courts.

Small Business Effect: None.

Analysis

Current Law: Under the State's prohibition against motor vehicle theft, a person may not knowingly and willingly take a motor vehicle out of the owner's lawful custody, control, or use without the owner's consent. A violator is guilty of the felony of taking a motor vehicle and subject to maximum penalties of imprisonment for five years and/or a fine of \$5,000. The convicted person must restore the motor vehicle or, if unable to, pay the owner its full value. These provisions do not preclude prosecution for general theft. If a person is convicted of motor vehicle theft and general theft for the same act or transaction, the motor vehicle theft conviction must merge for sentencing purposes with the conviction for theft.

Under the antitheft provisions of the Transportation Article, 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 even if the intent is not theft. A person who violates this section: (1) is guilty of the felony of taking a motor vehicle and subject to maximum penalties of imprisonment for five years and/or a fine of \$5,000. In addition, the convicted person must restore the owner's property or pay the owner for the value of the property. This provision does not preclude prosecution for theft of a 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 violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year and/or a fine of \$500.

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. Regardless of value, the convicted person must restore the owner's property or pay the owner for the value of the property or services.

Convictions for taking a motor vehicle and general theft of a motor vehicle are merged for sentencing purposes if the convictions stem from the same act or transaction.

If a police officer receives reliable information that a vehicle has been stolen, the police officer must immediately report the theft to the Motor Vehicle Administration (MVA) and the Department of State Police (DSP), unless the police officer has received reliable information of the recovery of the vehicle. An alleged theft of a rental vehicle is a reportable theft of a vehicle for purposes of these provisions.

If a police officer receives reliable information that a vehicle which the officer previously reported stolen has been recovered, the officer must immediately report the recovery to the MVA and DSP.

If a vehicle titled or registered in the State has been stolen, the owner or secured party may notify the MVA of the theft. Every person who has given such notice must notify the MVA of a recovery of the vehicle.

The MVA is required to maintain and appropriately index cumulative public records of stolen vehicles reported to it and may suspend the registration of such a reported vehicle. Until the MVA learns of the recovery of the vehicle or that the report of its theft was erroneous, it may not issue a certificate of title for the vehicle.

Background: Vehicle theft in Maryland increased by 143% from 1984 to 1994. The Maryland General Assembly created the Vehicle Theft Prevention Council in 1994 as a statewide planning and dedicated funding resource. The council embraces a statewide strategy directed at public awareness, vehicle theft by juveniles, law enforcement, and prosecution through a grant award process.

According to the State Police, since 1994 overall vehicle theft rates in Maryland have been reduced by over 36% for an estimated economic savings of \$70 million.

The fiscal 2006 budget allowance for the council was \$1.4 million. In December 2005, the Governor announced an increase of \$600,000 in vehicle theft prevention funding for fiscal 2006. The Governor's proposed fiscal 2007 budget includes \$2 million for the council.

The Washington Area Vehicle Enforcement (WAVE) Team consists of representatives of the Prince George's County Police, the Maryland State Police, the Washington Metropolitan Police, the Montgomery County Police, the Prince George's County Sheriff's Office, the Charles County Sheriff's Office, the U.S. Marshal's Service, and the University of Maryland Police. Officers from Prince George's County municipal police departments serve on the team on a rotating basis.

As of December 10, 2005, the WAVE Team has made 653 arrests, a 16% increase over the previous year. According to a December press release from the Governor, "[a]cting under multi-jurisdictional authority granted by the U.S. Marshal's Service and commanded by a Prince George's County Police Captain, WAVE Team members recovered 721 stolen vehicles, a 27% increase over last year. Those recovered vehicles are valued at more than \$9 million dollars. During arrests, officers recovered 29 firearms."

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 \$1,974 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 \$341 per month. Excluding medical care, the average variable costs total \$134 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 2007 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 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 provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalty. 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 \$33 to \$119 per inmate in fiscal 2007.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Somerset County, Prince George's County, Charles County, Judiciary (Administrative Office of the Courts), Department of State Police, Frederick County, Department of Public Safety and Correctional Services, Department of Legislative Services

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