

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 125 (Chairman, Education, Health, and Environmental Affairs Committee)
(By Request – Departmental – Environmental)

Education, Health, and Environmental Affairs

Environmental Matters

Falsifying and Altering Permits, Licenses, and Certificates - Criminal Penalties

This departmental bill establishes misdemeanor penalties for knowingly falsifying, altering, or causing another to falsify or alter any permit, license, or certificate issued or required under the Environment Article. The bill also establishes criminal penalties for knowingly possessing, displaying, or submitting to the Maryland Department of the Environment (MDE) or any other person any permit, license, or certificate that has been falsified or altered. The bill directs the Attorney General to take charge of, investigate, prosecute, and defend every case arising under the bill, including the recovery of any fines.

Fiscal Summary

State Effect: Potential increase in MDE special fund revenues and general fund expenditures due to the bill's penalty provisions. The Attorney General's Office within the Environmental Crimes Unit within MDE could handle any increase in prosecutions with existing resources.

Local Effect: Potential increase in expenditures due to the bill's incarceration penalty provisions.

Small Business Effect: MDE has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: A person convicted of either offense is subject to a fine of up to \$50,000 for each violation or imprisonment for up to two years, or both.

Any fine imposed under the bill must be paid into any applicable special fund authorized to receive fines for violations of any section of the Environment Article that requires or authorizes the document that is the subject of the violation.

The bill's provisions may not limit or affect the power or authority of the State's Attorney for each county and Baltimore City.

Current Law/Background: Currently, there are no criminal penalties for knowingly falsifying or altering any permit, license, or certificate issued by or on behalf of MDE. MDE advises that, in recent years, individuals have falsified or altered permits, licenses, or certificates issued under both the Scrap Tire Program and the Lead Registry Program. Acts of falsification and tampering are performed for a variety of reasons and result in avoidance of compliance with MDE's regulatory programs. Of specific concern to MDE are fraudulent lead inspection certificates presented to homeowners by unlicensed abatement contractors or by property owners to MDE. These certificates certify that the properties are in compliance with either the lead-free or lead-reduction standards, but the properties have not been properly inspected. In addition, MDE advises that unlicensed scrap tire haulers are altering licenses that are either expired or have been issued to others; these altered licenses are then shown to scrap tire generators that follow MDE's advice to verify that any hauler is in fact a legitimate licensed hauler.

State Revenues: Special fund revenues could increase as a result of the bill's monetary penalty provisions.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalties 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 Expenditures: Expenditures could increase 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 \$33 to \$119 per inmate in fiscal 2007.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Judiciary (Administrative Office of the Courts), Office of the Attorney General, Department of Public Safety and Correctional Services, Department of Legislative Services

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