

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 28
Judiciary

(Delegate McDermott)

Vehicle Laws - Hidden Compartments - Prohibition and Penalties

This bill prohibits a person from knowingly creating, building, or installing a hidden compartment, or knowingly owning or operating a motor vehicle that contains a hidden compartment. The intent to use an enclosure to hide a person or contraband may be inferred by the discovery in the enclosure of a person or contraband, or evidence of the earlier presence of a person or contraband. The bill defines a “hidden compartment” as an enclosure that is (1) integrated into or attached to a motor vehicle in a manner intended to conceal its presence and prevent its discovery *and* (2) designed and intended to conceal or prevent the discovery of a person or contraband. The bill also incorporates within the definition several examples of hidden compartments. A violation of the bill is a misdemeanor and carries a penalty of up to \$10,000 and/or up to two years imprisonment. Additionally, a motor vehicle involved in a violation of the bill is subject to seizure and, upon conviction, must be forfeited to the State.

Fiscal Summary

State Effect: General fund revenues increase, likely minimally, beginning in FY 2015 due to the bill’s penalty provision and from the collection of proceeds of seized vehicles. General fund expenditures increase, likely minimally, beginning in FY 2015 due to the bill’s penalty provisions.

Local Effect: The bill is not anticipated to materially affect local operations or finances, assuming that most or all prosecutions under the bill are brought in District Court.

Small Business Effect: None.

Analysis

Current Law: The Maryland Vehicle Law does not specifically prohibit the presence or manufacture of hidden compartments and does not specifically address the transport of contraband. However, the Criminal Law Article enumerates several prohibitions on the concealment of contraband. For example, “drug paraphernalia” is defined to include equipment, material, or a product used, intended, or designed for use in storing, containing, or concealing a controlled dangerous substance. Additionally, the Crimes Involving Controlled Dangerous Substances subtitle defines a “common nuisance” to include a vehicle where controlled dangerous substances or controlled paraphernalia are stored or concealed illegally.

Similarly, while the Maryland Vehicle Law does not specifically permit law enforcement to seize a vehicle, the Criminal Procedure Article authorizes the seizure of a vehicle connected with a controlled dangerous substance violation. Specifically, a motor vehicle used in violation of the Controlled Dangerous Substances law must be seized and forfeiture must be recommended to the forfeiting authority under specified conditions.

Background: The Federal Bureau of Investigation (FBI) website contains a webpage dedicated to assisting officers in the investigation and enforcement of cases involving the concealment of contraband within hidden compartments. According to the FBI, legal tools available in cases involving hidden compartments are fairly limited, as there is no federal statute specifically addressing the design, manufacture, or use of such compartments. However, at least four states (California, Georgia, Illinois, and Utah) have enacted laws to prohibit hidden compartments within vehicles.

State Revenues: General fund revenues increase, likely minimally, beginning in fiscal 2015 as a result of the bill’s monetary penalty provision from cases heard in the District Court. General fund revenues may also increase as a result of the sale of vehicles seized by police under the bill’s authority. Although the proceeds from the sale of seized vehicles may vary significantly, the Department of State Police (DSP) advises that, on average, it is able to recoup the costs of storing and disposing of a seized vehicle and any remaining funds from the sale of the vehicle are distributed to the general fund. The number of additional vehicle seizures under the bill is uncertain but is not anticipated to be significant.

State Expenditures: General fund expenditures increase minimally as a result of the bill’s incarceration penalty due to more people being committed to State correctional 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 State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,100 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 State inmate (including variable health care costs) is about \$735 per month. Excluding all health care, the average variable costs total \$185 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 a State correctional facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person had served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Additional Comments: The extent of potential violations of the bill is unknown. This fiscal and policy note assumes that the number of violations is relatively minimal based, in part, on the responses of DSP, the Judiciary, and the one local jurisdiction that responded to requests for information. Additionally, it is assumed that, due to the nature of the crime, it may be difficult to discover violations of the bill's prohibition. Finally, even if prosecutions involving the use of hidden compartments are not uncommon, it is unknown how often prosecutors may bring charges for the use of a hidden compartment rather than for the possession of contraband.

Additional Information

Prior Introductions: None.

Cross File: SB 443 (Senator Colburn) – Judicial Proceedings.

Information Source(s): Charles County, Judiciary (Administrative Office of the Courts), Department of State Police, Federal Bureau of Investigation, Maryland Department of Transportation, Department of Legislative Services

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Analysis by: Evan M. Isaacson

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