

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 443

(Senator Salling, *et al.*)

Judicial Proceedings

Courts - Forcible Entry Into Vehicle to Assist Trapped Animal - Immunity

This bill establishes that a person is not criminally or civilly liable for damage resulting from the forcible entry into a motor vehicle for the purpose of removing an animal from the vehicle under specified circumstances.

Fiscal Summary

State Effect: Potential minimal decrease in general fund revenues and expenditures if the bill results in fewer fines imposed in District Court cases and incarcerations.

Local Effect: Potential minimal decrease in local revenues and expenditures if the bill results in fewer fines imposed in circuit court cases and incarcerations.

Small Business Effect: None.

Analysis

Bill Summary: A person is not criminally or civilly liable for damage resulting from the forcible entry into a motor vehicle for the purpose of removing an animal from the vehicle if the person:

- determines the vehicle is locked or there is otherwise no reasonable method for the animal to exit the vehicle;
- has a good faith and reasonable belief that forcible entry into the vehicle is necessary because the animal is in imminent danger of suffering harm if not immediately removed from the vehicle;

- has made a reasonable effort to locate the owner of the vehicle;
- has contacted either the local law enforcement agency, the fire department, or the 9-1-1 operator before forcibly entering the vehicle;
- uses no more force to enter the vehicle and remove the animal from the vehicle than is necessary under the circumstances;
- places a notice on the vehicle's windshield that includes the person's contact information, the reason the entry was made, the location of the animal, and the fact that the authorities have been notified; and
- remains with the animal in a safe location, out of the elements but reasonably close to the vehicle, until a law enforcement officer, a member of the local fire department or rescue squad, or another emergency responder arrives.

Current Law:

Unattended Animals in Motor Vehicles: A person may not leave a cat or dog unattended in a standing or parked motor vehicle in a manner that endangers the health or safety of the cat or dog. A person that violates this law is guilty of a misdemeanor and subject to a maximum fine of \$500. The prepayment penalty established by the District Court for this offense is \$70.

Reasonable force may be used by specified persons to remove a cat or dog left unattended inside a motor vehicle in violation of the law, as follows: (1) a law enforcement officer; (2) a public safety employee of the State or a local government; (3) a State or local animal control officer; (4) an officer of a State-incorporated society or association for the prevention of cruelty to animals who is authorized to make arrests; or (5) a fire and rescue service professional or volunteer.

A person is prohibited from using force of any kind to remove a dog used by the State or a local government for police work or a cat or dog in the custody of an animal control officer.

Unlawful Taking of Property: Unlawfully taking the property of another individual, possessing or exerting control over the property of another individual without authorization, and entering specified property without authorization, are actions that are subject to a variety of criminal prohibitions and penalties, depending on the particular events and actions involved.

Wanton Trespass on Private Property: A person may not enter or cross over private property or board the boat or other marine vessel of another, after having been notified by the owner or the owner's agent not to do so, unless entering or crossing under a good faith claim of right or ownership. A person is also prohibited from remaining on private

property, including the boat or other marine vessel of another, after having been notified by the owner or the owner's agent not to do so.

Violators are guilty of a misdemeanor, punishable by (1) imprisonment for up to 90 days and/or a \$500 maximum fine for a first violation; (2) imprisonment for up to six months and/or a maximum fine of \$1,000 for a second violation occurring within two years after the first violation; and (3) imprisonment for up to one year and/or a \$2,500 maximum fine for each subsequent violation occurring within two years after the preceding violation.

Breaking and Entering a Motor Vehicle (Rogue and Vagabond): A person may not be in or on the motor vehicle of another with the intent to commit theft of the motor vehicle or property that is in or on the motor vehicle. This offense also prohibits various activities involving the use or possession of burglar's tools. Violators are guilty of a misdemeanor, must be considered a rogue and vagabond, and are subject to imprisonment for up to three years.

General Theft: A person may not, under specified circumstances (1) willfully or knowingly obtain or exert unauthorized control over property; (2) obtain control over property by willfully or knowingly using deception; (3) possess stolen property knowing that it has been stolen or believing that it probably has been stolen; or (4) obtain control over property knowing that the property was lost, mislaid, or delivered under a mistake as to the identity of the recipient or nature or amount of the property. A violator is required to restore the owner's property or pay the owner the value of the property or services and is subject to the penalties listed below (until October 1, 2017):

<u>Value of Property and/or Services</u>	<u>Maximum Penalty</u>
Less than \$100	Misdemeanor – 90 days imprisonment and/or a \$500 fine
Less than \$1,000	Misdemeanor – 18 months imprisonment and/or a \$500 fine
Less than \$1,000 (two or more prior convictions)	Misdemeanor – 5 years imprisonment and/or a \$5,000 fine
Between \$1,000 and \$10,000	Felony – 10 years imprisonment and/or a \$10,000 fine
Between \$10,000 and \$100,000	Felony – 15 years imprisonment and/or a \$15,000 fine
\$100,000 or more	Felony – 25 years imprisonment and/or a \$25,000 fine

Pursuant to Chapter 515 of 2016, also known as the Justice Reinvestment Act, effective October 1, 2017, the following provisions and penalties apply:

<u>Value of Property and/or Services</u>	<u>Maximum Penalty</u>
Less than \$100 (Misdemeanor)	90 days imprisonment and/or a \$500 fine
At least \$100 and less than \$1,500 (Misdemeanor)	First offense: 6 months imprisonment and/or a \$500 fine Second, third, or fourth offense: 1 year imprisonment and/or a \$500 fine Fifth and subsequent offense: 5 years imprisonment and/or a \$5,000 fine
At least \$1,500 and less than \$25,000 (Felony)	5 years imprisonment and/or a \$10,000 fine
At least \$25,000 and less than \$100,000 (Felony)	10 years imprisonment and/or \$15,000 fine
\$100,000 or more (Felony)	20 years imprisonment and/or a \$25,000 fine

Background: The District Court reports that, in fiscal 2015, the latest information available, 142 citations were issued for leaving a cat or dog unattended in a motor vehicle. Of those issued, 105 were prepaid, 4 went to trial, and 33 remained open.

Additional Information

Prior Introductions: SB 270 of 2016, a substantially similar bill, received an unfavorable report by the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Garrett and Montgomery counties; Judiciary (Administrative Office of the Courts); Department of State Police; Department of Legislative Services

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mm/kdm

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