

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 721
Judiciary

(Delegate Jennings, *et al.*)

Criminal Law - Improper Transport of Horses - Prohibitions

This bill requires the transport of horses to meet certain specifications and sets forth minimum safety requirements for vehicles used to transport horses. The bill establishes penalties for violations, including seizure of improperly transported horses and the vehicles and forfeiture of horses and vehicles to the State.

Fiscal Summary

State Effect: Potential minimal expenditures to board horses and store vehicles that are forfeited to the State. Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. Potential minimal revenue from the proceeds of horses and vehicles that are auctioned.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's penalty provisions. The bill's provisions could be enforced with existing resources.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill provides that unless a horse is being transported to a hospital or veterinary clinic, a person may not transport a horse that is unable to bear weight on all four limbs, is diseased, sick, blind, or otherwise disabled, or is likely to give birth during transport. A person may not transport a horse unless the person has proof of a negative Coggins test for the horse. A person may not transport a horse on a highway in the State

in a vehicle that is not designed and constructed in a manner that protects the health and well-being of the horse.

At a minimum, a horse transport vehicle must be: (1) limited to one level; (2) have sufficient interior height; (3) be specifically constructed for horse transport; (4) have adequate doorway heights and widths; (5) have ramp equipment, if necessary; (6) have anti-skid flooring and rails, if necessary; and (7) contain adequate space to prevent injurious crowding.

A violator is guilty of a misdemeanor. For a first offense, a violator is subject to up to one year imprisonment and/or a \$5,000 fine for each horse transported. For a second or subsequent offense, a violator is subject to up to three years imprisonment and/or a fine of \$8,000 for each horse transported.

When a violator is arrested, the police officer must seize each horse and the transport vehicle. Each seized horse must be taken to a location that is equipped to handle the care and treatment of animals.

The owner may file a petition in the District Court where the seizure occurred for the return of each horse and vehicle within 10 days of the seizure. The owner must post a bond in an amount to be set by the court that covers the cost of caring for the horse from the time of seizure to the court date on the petition for its return. If the owner fails to file a petition and post the required bond, the horse and vehicle are forfeited to the State.

Current Law: State law does not specifically regulate the transportation of horses within the State.

A person may not, however, overdrive or overload an animal, deprive an animal of necessary sustenance, or cause, procure or authorize such an act. If a person has charge or custody of an animal, that person may not inflict unnecessary suffering or pain or unnecessarily fail to provide the animal with nutritious food, necessary veterinary care, proper drink, air, space, shelter, or protection from the weather. A person who violates these provisions is guilty of a misdemeanor and is subject to imprisonment for up to 90 days and/or a fine of up to \$1,000. As a condition of sentencing, the court may order a convicted defendant to participate in and pay for psychological counseling.

Background: The Motor Vehicle Administration advises that as of November 30, 2004, 244,548 trailers were registered in Maryland. The number of registered trailers that are horse trailers is unknown. According to the Animal Protection Institute, Arizona and New York recently enacted legislation that strengthened rules for vehicles used to transport horses.

State Revenues: General fund revenues could increase minimally from the horses and vehicles that could be forfeited to the State under this bill's provisions. Horses and vehicles that are forfeited to the State would be maintained by the State Police until an auction could be held for the horses and vehicles. The proceeds from the sale of any auctioned horses or vehicles would be allocated to the State general fund.

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: While additional clerical and trial time may be required to process any increased caseload generated by the bill, the Judiciary could meet the bill's requirements with existing resources.

It is anticipated that in most cases an owner of a seized horse and vehicle would immediately petition the District Court for their return. A valid petition requires the owner to post a bond sufficient to cover the cost of boarding a horse and storing a vehicle.

If an owner fails to post bond or submits a defective petition, the bill requires the horse and vehicle to be forfeited to the State. The State Police advise that it does not operate any facilities that are appropriate for boarding horses. The State Police would contract with a boarding facility to maintain a horse until the horse could be auctioned for sale. Boarding costs range from \$150 to \$500 per month, not including veterinarian expenses and medical supplies. It is assumed that the State Police would auction off any forfeited horses as soon as possible to defray boarding expenses. Any forfeited horse transport vehicles would likely be held at the State Police impound lot until the first available vehicle auction. Any increased expenditures for the State Police are assumed to be minimal.

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 \$1,850 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. Excluding medical care, the average variable costs total \$120 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 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 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 provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally 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 2006.

Small Business Effect: Horse boarding facilities and car storage businesses could potentially receive additional revenue under this bill's provisions.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of State Police; Department of Public Safety and Correctional Services; Mark A. Crisman, D.V.M.; National Park Service; Animal Protection Institute; Department of Legislative Services

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