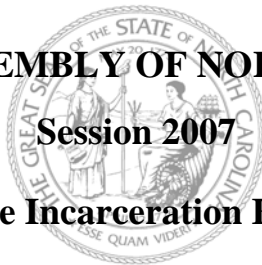


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 90 (First Edition)
SHORT TITLE: Secret Compartments in Motor Vehicles.
SPONSOR(S): Representative Moore

Table with columns: FISCAL IMPACT, Yes (X), No (), No Estimate Available (), FY 2007-08, FY 2008-09, FY 2009-10, FY 2010-11, FY 2011-12. Rows include: GENERAL FUND, Correction, Judicial, DMV (NR), Crime Control & Public Safety (NR), TOTAL EXPENDITURES, ADDITIONAL PRISON BEDS, POSITIONS, PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED, EFFECTIVE DATE.

BILL SUMMARY: Adds new GS 90-108.1 to make it: 1) unlawful to own or operate a vehicle a person knows to contain a false, hidden, or secret compartment; 2) unlawful to install, create, build, or fabricate a false, hidden, or secret compartment in any vehicle; and, 3) unlawful to sell, trade, or otherwise dispose of a vehicle known to contain a false, hidden, or secret compartment. A false, hidden, or secret compartment is defined as any enclosure attached to or integrated into a vehicle that is “intended or designed to conceal, hide, or prevent law enforcement officers from discovering the compartment or its contents.” This definition does not include a compartment or enclosure that is designed and installed by the manufacturer of the vehicle prior to sale. The bill also provides that the intent to use a secret compartment may be inferred from factors that include, but are not limited to: the discovery of a person, controlled substance, or other contraband if possession of either is a Class 1 misdemeanor or higher; or, evidence of the placement of such items in the compartment.

If a vehicle containing a secret compartment is not subject to forfeiture under law or required as evidence, a law enforcement officer must seize the license plate and registration card of the defendant, and report seizure to the Division of Motor Vehicles within 48 hours. The Division may issue a temporary license plate - valid for 30 days or until verification of repair is provided - to the owner of the vehicle upon application. The license plate and registration card shall be returned, subject to favorable inspection of the vehicle by a law enforcement officer.

Violation of the section is a Class I felony. The act appropriates from the General Fund to the Department of Crime Control and Public Safety \$100,000 for grants to local law enforcement agencies to offset the costs of enforcing the act.

Source: Adapted from Bill Digest H.B. 90 (02/06/0200)

ASSUMPTIONS AND METHODOLOGY:

Department of Correction – Division of Prisons

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available over the immediate five-year horizon or beyond.*

Because this bill creates new offenses, there is no historical data to estimate its impact on the State’s prison population. Thus, it is not known how many offenses might occur, or how many convictions might result. In FY 2005-06, 15% of Class I felony convictions resulted in active sentences, with an average estimated time served of 7 months; most Class I convictions (85%) resulted in community and intermediate sentences, primarily special, intensive, and general supervised probation.

Although it is not known how many additional violations might occur as a result of this bill, Fiscal Research does not anticipate a substantial impact. For example, *if twelve convictions were to occur per year, the combination of active sentences and probation revocations would require one additional prison bed in the first applicable year; four additional beds in the second year; and 2 new employees in the second year.* Assuming this threshold and inmate assignment to medium custody, the construction of four prison beds within a new, stand alone facility could cost the State \$272,160 in FY 2007-08; conversely, bed construction within an add-on facility could cost

approximately \$168,480.¹ These costs are attributed to FY 2007-08 since the construction of additional prison beds, whether within an add-on or stand-alone facility, requires budgeting at least three years in advance. Potential operating costs could total \$28,250 in FY 2008-09, and \$116,390 in FY 2009-10.²

Department of Correction – Division of Community Corrections

In FY 2005-06, 85% of Class I felony convictions resulted in either intermediate or community punishments, predominantly special, intensive, or general supervision probation. *Thus, assuming that future convictions for the new offenses were to occur, the Division of Community Corrections (DCC) would likely assume additional costs for offenders placed under its jurisdiction.* It is not known exactly how many offenders would be sentenced to intermediate or community punishments, to which type, or for how long.

Presently, general supervision of intermediate and community offenders by a probation officer costs DCC \$1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. DCC also incurs a daily cost of \$0.69 per offender sentenced to the Community Service Work Program. However, the daily cost per offender on intermediate sanction is much higher, ranging from \$7.71 to \$14.97 depending on the type of sanction. Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated \$14.97 per offender, per day. On average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of a specific bill. For such bills, fiscal impact is typically based on the assumption that court-time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

There is no historical charge data to indicate the prevalence of vehicles with hidden or secret compartments, or to distinguish the intended use of such compartments. Accordingly, the Administrative Office of the Courts cannot project the number of new Class I felony charges that might result under this bill.

However, preliminary AOC research suggests that secret compartments are most often used in connection with drug trafficking. Thus, while Fiscal Research does not anticipate a substantial impact, the relatively large number of defendants charged with controlled substance offenses indicates that some future offenses involving secret compartments could occur. In calendar year 2006, there were nearly 164,000 defendants charged with offenses under Chapter 90, including

¹ New, “stand alone” institution built for Expanded Operating Capacity (EOC); single cells are assumed for close custody, and dormitories are assumed for medium and minimum custody (occupancy no greater than 130% of SOC). “Add-on” facilities (close and medium custody) are built within the perimeter of an existing 1,000-cell Close Security Institution; a minimum custody “add-on” is built adjacent to an existing perimeter. “Add-on” facilities employ the same EOC custody configurations as “stand alone” (i.e. single cells for close custody, and dorms for medium and minimum custody levels).

² Impact on incarcerated population is assumed to begin in FY 2008-09, given the effective date of December 1, 2007 and typical lag time between charge and conviction (6 months).

45,728 defendants charged with possession of drug paraphernalia under G.S. 90-113.22. Consequently, to the extent that future possession offenses were to also meet the criteria for the proposed offenses, this bill could elevate the penalty for violation of current G.S. 90-113.22, a Class 1 misdemeanor offense.

The Administrative Office of the Courts anticipates that any new charge for the proposed offenses would increase jury involvement, as well as workloads for district attorneys, superior court judges, clerks, court reporters, and indigent defense counsel. Estimated court-time costs for a typical, Class I felony trial and plea are \$6,980 and \$298, respectively.³ In contrast, estimated court-time costs for a typical, Class 1 misdemeanor trial and plea are \$3,702 and \$243, respectively. Actual court-time costs may vary with time requirements and disposition.

Department of Transportation – Division of Motor Vehicles

To accommodate the license plate, registration card seizure, and recordkeeping requirements provided by this bill, the Division of Motor Vehicles (DMV) assumes that:

- Law enforcement will notify DMV of the seizure of plates and registration cards, using the same process for plates seized for liability insurance violations.
- A new turn-in code will be used to identify plates seized under the statute.
- A fee will be charged for the temporary tag issued for vehicles in violation of the statute.
- The temporary tags issued under the statute cannot be renewed, exchanged, or replaced.
- It will create a new form to prove the vehicle has been repaired and has been inspected by law enforcement (form will be imaged).
- Reports will be developed to track plates seized for false, hidden, or secret compartments.
- It would issue a “first in flight” plate to the customer at regular plate fee once determined the vehicle has been repaired.
- It does not possess the capability of storing seized plates or reissuing the plate to the owner.
- It would cost \$1.43 per plate turn-in to the License Plate Office.
- At this time, cardboard plates for dealer use currently cost the division nineteen cent per plate.

Because the number of vehicles with false, hidden, or secret compartments that are not otherwise subject to forfeiture or needed as evidence is unknown, a comprehensive cost estimate is unavailable. However, the Division of Motor Vehicles anticipates the following required modifications to the State Titling and Registration System (STARS), at a total, nonrecurring cost of \$188,000:

- Modification to the turn-in plate process to include a new turn-in code.
- Modification to the inquiry processes to display the new turn-in code.
- Modification to the plate issuance process to issue the new 30-day temporary tag. The process should charge the appropriate fee and print a temporary registration card.
- Modification to the plate issuance process to collect a new form to prove the vehicle has been repaired and has been inspected by law enforcement.
- Modification to the imaging system to image the new form.
- Creation of new reports to track plates seized due to false, hidden, or secret compartments.

³ Cost estimates are based on projected court-time requirements for judges, assistant district attorneys, deputy clerks, court reporters, and indigent defense counsel, and therefore represent only partial costs for court proceedings.

Table I. DMV Modification Estimate

<u>Activity</u>	<u>Estimated Hours</u>	<u>Cost (per hour)</u>	<u>Total Cost</u>
Analysis/Design	300	x \$80/hr =	\$24,000
Programming/Testing	1,000	x \$80/hr =	\$80,000
System Testing	100	x \$80/hr =	\$8,000
Client Testing	200	x \$80/hr =	\$16,000
Implementation	100	x \$80/hr =	\$8,000
Post Implementation	300	x \$80/hr =	\$24,000
Total Hours	2,000	x \$80/hr =	\$160,000
ITS Charges	1,400	x .25 x \$80/hr =	\$28,000

* ITS Charges = (25% of Programming & testing & implementation hours) x \$80 = .25 x 1,400 hrs x \$80/hour

Law Enforcement

A slight increase in the workload of law enforcement personnel might also result from this bill, particularly for local patrolmen (sheriffs and police) and State Highway Patrol; however, the potential cost of such increased workload cannot be determined. In addition, this act appropriates to the Department of Crime Control and Public Safety \$100,000 to be allocated through grants to local law enforcement agencies. These funds are assumed to be nonrecurring.

Though the appropriation is intended to offset the potential costs of enforcing this act, Fiscal Research cannot project the dispersal of additional cases among law enforcement types, or the potential man hours involved. Therefore, FRD cannot determine whether \$100,000 is insufficient, or overstates the amount needed to enforce this new law.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; Office of State Construction; Division of Motor Vehicles.

TECHNICAL CONSIDERATIONS: H.B. 90 does not specify a method for allocating grant funds to counties, so it is assumed that Crime Control and Public Safety will determine the criteria for allocation.

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