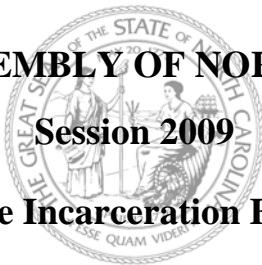


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 471 (First Edition)
SHORT TITLE: Selling Motor Vehicle Registrations Unlawful.
SPONSOR(S): Representatives Lewis, Tillis, Cotham, and Mackey

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
GENERAL FUND EXPENDITURES:					
Correction		Indeterminate fiscal impact			
Probation		Indeterminate fiscal impact			
Judicial	\$22,367	\$40,261	\$42,274	\$44,388	\$46,607
DMV		No fiscal impact			
ADDITIONAL PRISON BEDS: (cumulative)*					
		No significant impact anticipated			
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; Department of Motor Vehicles					
EFFECTIVE DATE: December 1, 2009					
<i>*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.</i>					

BILL SUMMARY:

This bill adds GS 20-79.1(l) to make it a Class 1 misdemeanor for a person not authorized to possess or sell a temporary registration plate to possess, sell, transfer, or deliver a temporary registration plate to any other person. The bill also amends GS 20-79.1(d) to clarify that a dealer may not sell a temporary registration plate or marker to anyone other than a bona fide purchaser or owner of a vehicle that the dealer has sold.

ASSUMPTIONS AND METHODOLOGY:

Division of Motor Vehicles

The Division of Motor Vehicles has reviewed this bill and does not anticipate any fiscal impact from its implementation.

Department of Correction – Division of Prisons

The North Carolina Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing, or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

Section 1:

This section amends subsection (d) of G.S. 20-79.1, to make it unlawful for a dealer to “sell” temporary registration plates or markers to anyone other than a bona fide purchaser or owner of a vehicle which the dealer has sold. Under G.S. 20-176(c), it is a Class 2 misdemeanor to violate any provision of General Statutes Chapter 20, Article 3, Part 5, including G.S. 20-79.1(d). Subsection G.S. 20-79.1(d) currently makes it unlawful (and thus a Class 2 misdemeanor) for a dealer to “issue, assign, transfer, or deliver” temporary plates or markers in this circumstance. The Sentencing and Policy Advisory Commission does not maintain statistical information on Class 2 misdemeanor traffic offenses. Therefore, *it is not known how many convictions there are for this offense, how many active sentences are imposed for this offense, or the length of sentences imposed.*

It is not known how many additional convictions may result from the potential broadening of the current statute.¹ In FY 2007-08, 20% of Class 2 misdemeanor convictions for non-traffic offenses resulted in active sentences. The average estimated time served for Class 2 misdemeanor convictions was 10 days. Offenders serving active sentences of 90 days or less are housed in county jails. *Therefore, additional convictions for this offense would not be expected to have a significant impact on the prison population.* The impact on local jail populations is not known.

Section 2:

This section enacts new subsection (1) in G.S. 20-79.1, making it a Class 1 misdemeanor for any person not authorized to possess or sell a temporary registration plate to possess, sell, transfer, or deliver a temporary registration plate to any other person.

Because the proposed section creates a new offense, the Sentencing and Policy Advisory Commission does not have any historical data from which to estimate the impact of this section on the prison population. *It is not known how many offenders might be convicted and sentenced under the proposed section.* In FY 2007-08, 21% of Class 1 misdemeanor convictions resulted in active sentences. The average estimated time served for Class 1 misdemeanor convictions was 30 days. Offenders serving active sentences of 90 days or less are housed in county jails. *Therefore, additional convictions for this offense would not be expected to have a significant impact on the prison population.* The impact on local jail populations is not known.

It is currently a Class 3 misdemeanor under G.S. 20-111(3) to give, lend, or borrow a license plate for the purpose of using the plate on a motor vehicle other than that for which issued. The Sentencing and Policy Advisory Commission does not maintain statistical information on Class 3 misdemeanor traffic offenses. *Therefore, it is not known how many convictions there are for this offense, how many active sentences are*

¹ It is not clear that the addition of the term “sell” to this proscriptive list would expand the reach of subsection (d) to additional acts not already covered by the existing language.

imposed for this offense, or the length of sentences imposed. It is also not known whether (or how many) of these convictions would become Class 1 misdemeanor convictions under the proposed bill. In FY 2007-08, 24% of Class 3 misdemeanor convictions and 21% of Class 1 misdemeanor convictions resulted in active sentences. The average estimated time served for Class 3 misdemeanor convictions was 3 days and 30 days for Class 1 misdemeanor convictions. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, any convictions that would be reclassified to Class 1 misdemeanors under this proposed bill would not be expected to have a significant impact on the prison population. There is the potential for impact on local jail populations as a result of the increase in the average estimated time served for Class 1 misdemeanor convictions.

It is important to note that based on the most recent population projections and estimated bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.* Therefore, any additional prison beds that may be required as a result of the implementation of this proposed legislation will place a further burden on the prison bed shortage.

Department of Correction – Division of Community Corrections

For felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Intermediate sanctions include intensive supervision probation, special probation, house arrest with electronic monitoring, day reporting center, residential treatment facility, and drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.²

General supervision of intermediate and community offenders by a probation officer costs DCC \$2.37 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. The daily cost per offender on intermediate sanction ranges from \$8.43 to \$16.71, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$16.71 for the initial six-month intensive duration, and \$2.09 for general supervision each day thereafter. Total costs to DCC are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

Because this is a new charge and there is no historical data upon which to base an estimate, *potential costs to DCC cannot be determined.*

Judicial Branch

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

The Division of Motor Vehicles (DMV) estimates that, under current G.S. 20-79.1, they have 200 charges per year. AOC cannot predict the additional charges that would be made by adding “sell” to the prohibited actives or by adding unlawful possession of a temporary plate. Therefore, they have provided a minimum

² DCC incurs costs of \$0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

cost estimate based on applying a Class 1 misdemeanor charge to each of the 200 charges estimated by DMV under current law. Costs are as follows:

	FY 2009-10 (eff. Dec.1)	FY 2010-11
AOC	\$12,287	\$22,117
AOC – IDS	\$10,080	\$18,144
Total	\$22,367	\$40,261

Costs include court time for in-court personnel, preparation time for assistant district attorneys, and indigent defense court and preparation time. A minimum estimate for support staff resources outside the courtroom is included, but other operating costs are not included. For the purposes of this estimate, the cost to the courts for a case disposed other than by plea or trial is approximated by the cost of a plea. In 2008, for the average Class 1 misdemeanor, the trial rate was 2.8% and the indigency rate was 38.4%. Misdemeanor cases with indigent representation are assumed to require, on average, three hours of indigent defense time (based on a 2005 Office of Indigent Defense report), at a cost of \$75 per hour. All costs are increased by 5% each year to account for annual filing increases.

In FY 2007-08, a typical misdemeanor case took approximately 87 days to dispose in District Court. Any increase in judicial caseload without accompanying resources could be expected to further delay the disposition of cases.

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

TECHNICAL CONSIDERATIONS: None

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DATE: April 2, 2009

Signed Copy Located in the NCGA Principal Clerk's Offices