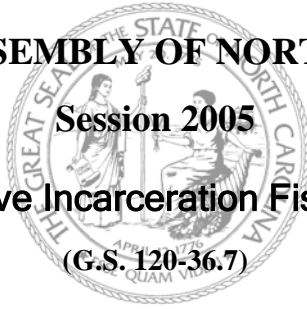


**GENERAL ASSEMBLY OF NORTH CAROLINA**



**Session 2005**

**Legislative Incarceration Fiscal Note**

**(G.S. 120-36.7)**

**BILL NUMBER:** House Bill 2145 (Second Edition)  
**SHORT TITLE:** Secret Compartments in Motor Vehicles.  
**SPONSOR(S):** Representative Moore

|  |   | <b>FISCAL IMPACT</b>     |                          |                                  |                         |                          |
|--|---|--------------------------|--------------------------|----------------------------------|-------------------------|--------------------------|
|  |   | <b>Yes (X)</b>           | <b>No ( )</b>            | <b>No Estimate Available ( )</b> |                         |                          |
|  |   | <b><u>FY 2006-07</u></b> | <b><u>FY 2007-08</u></b> | <b><u>FY 2008-09</u></b>         | <b><u>FY 2009-1</u></b> | <b><u>FY 2010-11</u></b> |
| <b>GENERAL FUND</b>  |   |                          |                          |                                  |                         |                          |
| <b>Correction</b>  | Fiscal impact anticipated but exact amount cannot be determined – see page 2 Assumptions and Methodology.                   |                          |                          |                                  |                         |                          |
| <b>Recurring</b>   |   |                          |                          |                                  |                         |                          |
| <b>Nonrecurring</b>  |   |                          |                          |                                  |                         |                          |
| <b>Judicial</b>  | Fiscal impact anticipated but exact amount cannot be determined – see page 3 Assumptions and Methodology.                   |                          |                          |                                  |                         |                          |
| <b>DMW</b>   | \$188,000   |                          |                          |                                  |                         |                          |
| <b>Crime Control</b>   | \$100,000   |                          |                          |                                  |                         |                          |
| <b>TOTAL</b>   | \$100,000 grant to Crime Control. Fiscal impact of bill anticipated in other areas, but exact amounts cannot be determined. |                          |                          |                                  |                         |                          |
| <b>EXPENDITURES:</b>   |   |                          |                          |                                  |                         |                          |
| <b>ADDITIONAL PRISON BEDS*</b>   | Potential impact; number cannot be determined.  |                          |                          |                                  |                         |                          |
| <b>POSITIONS: (cumulative)</b>   | Number cannot be determined.  |                          |                          |                                  |                         |                          |
| <b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>  | Department of Correction; Judicial Branch; DMV; Crime Control and Public Safety.  |                          |                          |                                  |                         |                          |
| <b>EFFECTIVE DATE:</b>   | December 1, 2006.   |                          |                          |                                  |                         |                          |
| *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. |   |                          |                          |                                  |                         |                          |

**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 discovery by law enforcement officers of the false, hidden or secret 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 previous placement of such items in the compartment.

If the vehicle containing such compartment is not subject to forfeiture under law or needed as evidence, a law enforcement officer shall seize the license plate and registration card of the defendant, and shall report that 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, whichever comes first - 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 2006-07 for grants to local law enforcement agencies to offset costs of enforcing the act.

*Source: Adapted from Bill Digest H.B. 2145 (05/17/0200)*

## **ASSUMPTIONS AND METHODOLOGY:**

### **Department of Correction**

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 are no historical data to estimate its impact on the State’s prison population. Thus, it is not known how many offenders might be sentenced as a result. In 2004-05, 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 sentencing, primarily special, intensive, and general supervised probation.

Though it is not known how many additional violations might occur as a result of this bill, *if twelve additional convictions occur per year, the combination of active sentences and probation revocations would require one additional prison bed the first year, four additional prison beds the second year, and 2 new employees in the second year. Assuming this threshold and a medium custody level, the construction of additional prison beds could cost the State \$65,340 the first year, and \$282,269 the second year; potential operating costs could be \$26,680 in the first year, and \$109,922 in the second year.*

Assuming some intermediate and community punishment, additional costs for probation supervision could also be incurred. Presently, general supervision from a probation officer costs the Division of Community Corrections \$1.93 per offender, per day. Special sanctions under intermediate sentences generate higher costs. Intensive supervision probation, the most commonly utilized intermediate sanction, costs \$12.95 per offender per day and is for an average of six months; electronic house arrest costs \$6.71. Such costs are projected to begin in FY 2007-2008, due to the effective date of December 1 and the lag time between charge and conviction.

In addition, offenders supervised by DCC are required to pay a \$30 per month supervision fee; those on electronic house arrest or electronic monitoring must also pay a one-time \$90 fee. This money is collected by the Court System and goes to the General Fund. The percentage of fees actually collected cannot be determined from the Court's records, but survey information indicates that the compliance rate for supervised probationers is around 48%.

### **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 these 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.

Data are not available on how frequently hidden or secret compartments are used to conceal contraband from law enforcement. Accordingly, the AOC cannot estimate the number of new Class I felony charges that might result under this bill. For a single Class I felony case, court-time costs are an estimated \$6,028 per trial and \$274 per plea.

Research suggests that secret compartments are most often used in drug trafficking. Thus, this bill could elevate the penalty for some offenses that are currently charged as misdemeanors, such as G.S. 90-113.22, which makes it a Class 1 misdemeanor for any person to knowingly use, or to possess certain drug paraphernalia. A person charged under current G.S. 90-113.22 could also be charged with a Class I felony offense if the person used a false, hidden, or secret compartment in a vehicle. Given the large pool of persons charged with cases involving controlled substances, the number of cases involving secret compartments could potentially increase, resulting in an increase in court workload. In addition, some cases currently charged as misdemeanors in district court could instead be prosecuted as felonies in superior court under the bill. In 2004-05, there were more than 30,000 controlled substance cases filed in superior court, and in calendar year 2005, 45,040 defendants were charged with possessing drug paraphernalia under G.S. 90-113.22.

### **Department 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 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.

**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          |
| <b>Total Hours</b>  | <b>2,000</b>           | <b>x \$80/hr =</b>       | <b>\$160,000</b>  |
| <b>ITS Charges</b>  | <b>1,400</b>           | <b>x .25 x \$80/hr =</b> | <b>\$28,000</b>   |

\* 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 for FY 2006-07 to be allocated through grants to local law enforcement agencies. Though the appropriation is intended to offset the potential costs of enforcing the act, Fiscal Research cannot project the dispersal of additional cases among law enforcement types, nor can it confirm that the appropriation is sufficient to cover the potential costs of enforcement.

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

**TECHNICAL CONSIDERATIONS:** H.B. 2145 does not specify a method for allocating funds to counties. It is assumed that such allocation is under Crime Control and Public Safety's discretion.

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**DATE:** June 27, 2006



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