

vehicles shown to be for the purpose of alteration, sale, or disposal at the location or six of the enumerated component parts for profit at his or her location.

House Bill 509 also criminalizes transporting a vehicle to a chop shop and undertaking any financial transaction with a chop shop, knowing it to be a chop shop. Those per se violations would constitute 4th degree felonies while proof that an individual was operating a chop shop in the totality would result in a 3rd degree felony.

FISCAL IMPLICATIONS

The fiscal impact of this bill is not affected by the HJC amendments.

The Law Offices of the Public Defender (LOPD) states that, while it is likely LOPD would be able to absorb some increase in cases under the proposed law, any increase in LOPD expenditures brought about by the cumulative effect of this and all other proposed criminal legislation would bring a concomitant need for an increase in indigent defense funding to maintain compliance with constitutional mandates.

If significantly more cases are added to LOPD's overall workload as result of a significant number of chop shop cases being prosecuted, House Bill 509 would in turn necessitate additional attorney hires for LOPD. These 3rd and 4th degree felony cases would ordinarily be defended by mid-level attorneys within LOPD. An LOPD Assistant Trial Attorney's mid-point salary including benefits is \$102.2 thousand in Albuquerque and Santa Fe and \$109.4 thousand in the outlying areas due to salary differential required to maintain qualified employees. Recurring statewide operational costs per attorney would be \$2.3 thousand with start-up costs of \$3.2 thousand; additionally, average support staff (secretarial, investigator and social worker) costs per attorney would total \$77.1 thousand.

The AOC explains "there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and an increase in commenced prosecutions, as well as appeals from convictions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase."

In response to the HJC amendments, AOC explains:

The amendment makes it clear that not only is owning or operating a chop shop unlawful, but so is maintaining or controlling one. This amendment has the potential of widening the pool of defendants that can be charged with this crime.

The amendment to the definition of "chop shop" clarifies what is considered an "identifying feature or number". It also eliminates two additional ways to show that a facility is "chop shop" per se. This simplification of the definition does not significantly affect the substance or purpose of the bill.

SIGNIFICANT ISSUES

AOC analysis explains:

According to the Colorado Attorney General’s Office, as of 2014, there were 15 other states and the federal government that have passed “chop shop” statutes.

For example, the federal statute against chop shops is as follows: “Any person who knowingly owns, operates, maintains, or controls a chop shop or conducts operations in a chop shop shall be punished by...” fine and/or imprisonment. 18 U.S. Code Section 2322.

When commenting about Colorado’s chop shop statute (which is very similar to HB 509) the Colorado Attorney General stated, “Chop-shop owners typically distance themselves from the stolen car making existing statute ineffective at preventing this type of criminal activity. [Colorado’s chop shop statute] creates a comprehensive statutory scheme that specifically targets and criminalizes the sophisticated and specialized behavior involved in stealing and parting vehicles for profit.”

NMAG states:

There is some overlap with the receiving or transferring stolen vehicles or motor vehicles statute, NMSA 1978, Section 30-16D-4. Particularly, the bill’s subsection (A)(2) and (A)(3) appear to conflict with Section 30-16D-4 and could present a double jeopardy issue. That statute provides:

Receiving or transferring a stolen vehicle or motor vehicle consists of a person who, with intent to procure or pass title to a vehicle or motor vehicle as defined by the Motor Vehicle Code that the person knows or has reason to believe has been stolen or unlawfully taken, receives or transfers possession of the vehicle or motor vehicle from or to another or who has in the person's possession any vehicle that the person knows or has reason to believe has been stolen or unlawfully taken.

The AODA expressed concern the bill requires two or more unlawfully obtained motor vehicles instead of one or more. Additionally, AODA is concerned “electrical components” are not included as major components of vehicles and that the bill is limited to only motor vehicles when it could include other motorized equipment like boats.

TECHNICAL ISSUES

NMAG states “the bill is redundant in its use of the term ‘knowingly’ in every subsection when it has already indicated that a person must knowingly commit the crime.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AOC explains if the bill is not enacted that the activities targeted by this bill will continue to be addressed according to current criminal state and federal statutes and regulatory provisions.

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