

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0655-04
Bill No.: Perfected HCS for HB 180
Subject: Alcohol; Children and Minors; Crimes and Punishment
Type: Original
Date: April 28, 2015

Bill Summary: This proposal increases the penalties for knowingly allowing a minor to drink or possess alcohol or failing to stop a minor from drinking or possessing alcohol. The proposal also prohibits the use or sale of powdered alcohol

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	(Less than \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)
Total Estimated Net Effect on General Revenue	(Less than \$100,000)	(Could exceed \$100,000)	(Could exceed \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§311.310 - Underage drinking:

Officials from the **Department of Public Safety (Missouri Highway Patrol and Alcohol and Tobacco Control)**, the **Office of the State Courts Administrator** and the **Office of Prosecution Services** each assume the proposal would not fiscally impact their respective agencies.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are faced with enhanced penalties for knowingly allowing a minor to drink or possess alcohol or failing to stop a minor from drinking or possessing alcohol. These offenses escalate from a B Misdemeanor to a D Felony.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Department of Corrections (DOC)** state the bill specifies the reclassification of existing penalties and creates a new penalty for supplying or facilitating the supply of alcohol to a person under the age of twenty-one. First and second offenses are reclassified from misdemeanors to felonies. The bill also creates a new class B felony if the offense is associated with an intoxicated minor who injures or kills another person while intoxicated.

The DOC does not currently supervise the commission of these offenses as misdemeanors and therefore does not have record of anyone sentenced under this section of legislation. However, as the bill proposes the reclassification of misdemeanor to felony offenses and introduces a new felony offense, it is possible that the passage of this bill could impact the Department of Corrections.

Through consultation with the Office of State Courts Administrator, it was determined that during fiscal year 2014 there were no charges of 33033 (currently a class A misdemeanor) that were disposed with a guilty outcome, but there were 17 charges of 33037 (currently a class B misdemeanor) that were disposed with a guilty outcome. The charge code of 33037 is associated

ASSUMPTION (continued)

with a first offense, which is a class B misdemeanor under current legislation. This bill proposes to change the classification of this first offense to a class D felony.

The penalty provision component of this bill resulting in potential fiscal impact for DOC, is for up to a class D Felony. Based upon historical data, we assume that approximately 4 offenders would be sentenced to incarceration under this new legislation; as well as 12 offenders in FY16, 29 offenders in FY17, and 46 offenders in FY18 and beyond would be sentenced to supervision. The average cost of supervision is \$6.72 per offender per day or an annual cost of \$2,453 per offender. The DOC cost of incarceration is \$16.725 per day or an annual cost of \$6,105 per offender.

Additional penalty provision component of this bill resulting in potential fiscal impact for DOC, is for up to a class B Felony. Based upon historical data, DOC assumes that approximately .53 offenders in FY16, 1.06 offenders in FY17, 1.06 offenders in FY18 and beyond would be sentenced to incarceration under this new legislation; as well as, .47 offenders in FY16, .94 offenders in FY17, 1.94 offenders in FY18, 2.94 offenders in FY19, and 3.94 offenders in FY20 and beyond would be sentenced to supervision.

In summary, DOC assumes costs from the proposal would be \$48,537 in year one, \$106,421 in year two, \$154,487 in year three, and \$166,147 at full implementation of the legislation in year 5.

Oversight will reflect the potential cost to the Department of Corrections as "Less than \$100,000" in FY 2016, and "Could exceed \$100,000" in the following years.

§§311.057 & 577.180 - Powdered Alcohol:

In response to a similar proposal from this year, HB 1329, officials from the **Department of Public Safety (Alcohol and Tobacco Control and Missouri Highway Patrol)**, and the **Office of the State Courts Administrator** each assumed the proposal would not fiscally impact their respective agencies.

In response to a similar proposal from this year, HB 1329, officials from the **Office of Prosecution Services** assumed the proposal would have no measurable fiscal impact on their agency. The creation of a new crime creates additional responsibilities for county prosecutors which may in turn result in additional costs which are difficult to determine.

In response to a similar proposal from this year, HB 1329, officials at the **Office of State Public Defender (SPD)** stated they could not assume that existing staff will provide effective

ASSUMPTION (continued)

representation for any new cases arising where indigent persons are charged with the proposed new crime of sale or possession of powdered alcohol - a new class C misdemeanor.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
GENERAL REVENUE			
<u>Costs - Department of Corrections</u>			
Incarceration / Supervision of convicted offenders	(Less than <u>\$100,000</u>)	(Could exceed <u>\$100,000</u>)	(Could exceed <u>\$100,000</u>)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(Less than <u>\$100,000</u>)	(Could exceed <u>\$100,000</u>)	(Could exceed <u>\$100,000</u>)
<u>FISCAL IMPACT - Local Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal specifies that the provisions regarding the sale of intoxicating liquor to a minor and the permitted drinking or possession of intoxicating liquor to a minor are to be known as Austin's Law.

The bill changes the penalty for a person who knowingly allows a minor to drink or possess intoxicating liquor who is not the minor's parent or guardian from a class B misdemeanor to a class D felony for an offense committed before January 1, 2017, and a class E felony for an offense committed on or after January 1, 2017. The penalty for any subsequent violation is changed from a class A misdemeanor to a class C felony for an offense committed before January 1, 2017, and a class D felony for any subsequent violation committed on or after January 1, 2017.

If the individual under the age of 21 causes death or physical injury to another person while intoxicated, the penalty is a class B felony.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

Sections 311.057 & 577.180 (regarding powdered alcohol) have an emergency clause.

SOURCES OF INFORMATION

Department of Public Safety
Office of the State Courts Administrator
Office of Prosecution Services
Department of Corrections
Office of the State Public Defender



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April 28, 2015

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