

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1604-12
Bill No.: Truly Agreed To and Finally Passed CCS for SS for SCS for HS for HB 470
Subject: Crimes and Punishment; Drugs and Controlled Substances; Law Enforcement Officers and Agencies
Type: Original
Date: May 29, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General Revenue	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **State Courts Administrator**, the **Department of Agriculture**, the **Office of Prosecution Services**, the **Department of Health and Senior Services**, the **Department of Natural Resources**, and the **Department of Public Safety - Missouri State Highway Patrol** assume this proposal would not fiscally impact their agencies.

Officials from the **Office of Attorney General** assume that any costs associated with the provisions of this proposal could be absorbed with existing resources.

Officials from the **Office of State Public Defender (SPD)** assume that existing staff could provide representation for those few cases arising where indigent persons were charge with unlawful release of anhydrous ammonia.

The SPD states passage of more than one proposal increasing penalties on existing crimes or creating new crimes would require the SPD to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state the average prison time served for a class B and A felony is 39.5 months and 92 months, respectively. The DOC states existing statute that is closest to this proposal is a class D felony for theft of anhydrous ammonia and those offenders serve an average of 30 months. In FY 02, the DOC had 11 admissions for this crime.

Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY02 average of \$35.52 per inmate, per day or an annual cost of \$12,065 per inmate) or through supervision provided by the Board of Probation and Parole (FY02 average of \$3.10 per offender, per day or an annual cost of \$1,132 per offender). The DOC states eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually.

In summary, supervision by the DOC through incarceration or probation would result in additional costs, and although the exact fiscal impact is unknown, it is estimated that potential costs will be in excess of \$100,00 per year.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
<u>Costs – Department of Corrections</u>			
Incarceration/probation costs	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small business that sell methamphetamines would be required to modify their store layout to put these drugs behind the counter.

DESCRIPTION

This proposal prohibits the sale of more than two packages, or six grams, of any over-the-counter drug having a sole active ingredient of ephedrine, pseudoephedrine, or phenylpropanolamine.

The bill also prohibits the sale of three packages, or nine grams, of any combination drug containing ephedrine, pseudoephedrine, or phenylpropanolamine. Packages having a sole active ingredient of ephedrine, pseudoephedrine, or phenylpropanolamine must be kept behind the counter, or within 10 feet of an attended checkout counter and within the view of the checker.

This provision does not apply to stores that have an electronic anti-theft system using a detection alarm and product tags on these drugs. The bill supercedes any local ordinance passed on or after December 23, 2002, to the extent the ordinance is more restrictive. Violation of this provision is a class A misdemeanor.

The proposal creates the crime of unlawful release of anhydrous ammonia, a class B felony. A person commits the crime when he or she is not the lawful possessor of anhydrous ammonia and releases the chemical into the atmosphere.

The proposal also authorizes courts to order a defendant convicted of a drug crime to pay for the testing of the drug at a private lab.

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SOURCES OF INFORMATION

Department of Public Safety -
Missouri State Highway Patrol
Department of Health and Senior Services
Department of Corrections
State Public Defender
Office of Prosecution Services
State Courts Administrator
Department of Agriculture
Department of Natural Resources



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MAY 29, 2003