

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 4036-01
BILL NO.: HB 1966
SUBJECT: Motor Vehicle; Crimes and Punishments; Alcohol
TYPE: Original
DATE: February 22, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Highway Fund	\$26,645	\$30,774	\$30,774
General Revenue	(Unknown, to exceed \$100,000)	(Unknown, to exceed \$100,000)	(Unknown, to exceed \$100,000)
Total Estimated Net Effect on <u>All</u> State Funds	(Unknown, to exceed \$73,355)	(Unknown, to exceed \$69,226)	(Unknown, to exceed \$69,226)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local government	\$10,575 to (Unknown)	\$12,690 to (Unknown)	\$12,690 to (Unknown)

Numbers within parentheses: () indicate costs or losses

This fiscal note contains 9 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Department of Public Safety - Missouri State Highway Patrol, Water Patrol and Office of Prosecution Services** assume this proposal would have no fiscal impact to their agencies. In response to previous versions of this proposal, officials of the **Office of the Attorney General** assumed this proposal would have no fiscal impact to their agency.

Officials of the **State Public Defender (SPD)** assume that existing staff could provide representation for those 50 - 75 cases arising where indigent persons were charged with "driving while intoxicated at .08%" or where the indigent persons were accused of "aggravated driving with an excessive blood alcohol content (BAC) of .15%." However, passage of more than one similar bill would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing the indigent accused. Appropriations are typically requested through the increased trial division caseload decision item in the SPD's Legislative Budget Request.

Officials from the **Department of Revenue (DOR)** assume this proposal creates a new crime of aggravated driving with excessive blood alcohol content of .15% or more. Upon conviction of this offense, the DOR will assess 12 points on the individual's driving record. This proposal requires a 90 day suspension if convicted of aggravated driving with excessive blood alcohol content and the individual is not eligible to obtain a limited driving privilege. In order to be reinstated, the individual must pay a \$45 reinstatement fee and complete a substance abuse traffic offenders program.

This proposal also decreases the legal limit of intoxication from .10% to .08% for both operating a motor vehicle and operating a boat on certain waters in Missouri. Operating a boat while intoxicated is also subject the penalties of involuntary manslaughter, assault, and assault of a law enforcement officer. These types of convictions have also been included in the evaluation for five year denial of a motor vehicle driving privilege.

The Drivers License Bureau (DLB) currently receives convictions and administrative suspension documentation relating to driving while intoxicated with a blood alcohol content of .15% or more. The new conviction of aggravated driving with excessive blood alcohol content will not have an impact on the Drivers License Bureau.

Revisions to section 577.010.2 will no longer allow a court to impose a suspended imposition of sentence on a first alcohol related offense. The DLB estimates 4,338 additional convictions will

ASSUMPTION (continued)

be assessed points and added to the driving record. The Drivers License Bureau will require two hours of overtime per day to handle the additional volume of convictions. This results in anticipated overtime costs of \$6,080 in FY 01 and \$7,296 in FY 02 and 03.

260	Days per year
<u>x 2</u>	Overtime hours required
520	Total overtime hours

\$14.03	Overtime hourly rate
<u>x 520</u>	Overtime hours required
\$7,296	Total overtime required

Revenue Increase

The increase in alcohol convictions will result in additional suspensions and revocations of driving privileges. Subsequently, an increase in reinstatement fees will also be incurred.

The current compliance rate for reinstatements on actions relating to driving while intoxicated is 26%. Therefore, of the 4,338 additional convictions anticipated, 1,128 are expected to come into compliance and be reinstated, resulting in an additional \$50,760 collected in reinstatement fees.

1,128	Suspensions and revocations @ 26% compliance rate
<u>x \$45</u>	Reinstatement fee (\$20 reinstatement fee and \$25 alcohol fee)
\$50,760	

FY 01

\$32,725	Highways
\$6,345	Cities
\$4,230	Counties

FY 02 & 03

\$38,070	Highways
\$7,614	Cities
\$5,076	Counties

ASSUMPTION (continued)

Officials of the **State Courts Administrator (CTS)** stated the proposed legislation would: tighten the standard for presuming driving while intoxicated by changing the blood alcohol standard from 0.1 to .08; expand the open container law; create a new penalty for “aggravated driving” offenders; restrict eligibility for a hardship license; include “boating while intoxicated” and any probationer or parolee for any alcohol-related offense as those required to complete a SATOP program before they are released from probation or parole; require the court to order the offender to pay restitution to the state in the amount of any fee or portion of any fee paid by the state on behalf of the offender; increase the penalty for first offense DWI and prohibit an SIS for all; create the classification of “dangerous persistent offender” and change the definition of “persistent offender” and “prior offender” and create a class of “repeat offender”; mandate 48 hours incarceration for some offenders; and repeal the statute allowing first offense alcohol convictions to be expunged. Depending on the degree of enforcement, there may be an increase in the number of cases filed. However, there is no way to quantify the increase at this time. Because of the increased penalties, some cases may become protracted. There will be an impact on the Department of Corrections.

Officials of the **Missouri Department of Transportation (MoDOT)** stated in the TEA 21 Restoration Act of June, 1998, Congress passed laws requiring states to toughen repeat drunk driving laws and pass open container laws. Currently, Missouri has an anti-consumption law. If Missouri does not implement an open container or a repeat offender law by October 1, 2000, Missouri must transfer 1½ percent of its Surface Transportation Program, Interstate Maintenance, and National Highway System funds to either 23 U.S.C. Section 402 (drunk driving enforcement) or Section 152 (hazard elimination) programs *for each law not passed*. This transfer percentage doubles if neither law is in place by October 1, 2002, to 3 percent *per law not passed*. Therefore, the transfer of federal funds may be: \$12.4 million for FY01, \$12.6 million for FY02 and \$25.2 million for FY03.

Officials of the **Department of Corrections (DOC)** assume the penalty provision portions of the proposal would have a fiscal impact on DOC relating to probation, parole and/or incarceration.

New commitments which could result from the creation of the offense(s) outlined in this proposal could not be accurately determined. In addition, changes in penalty provisions for current crimes could result in additional costs due to new commitments and/or longer sentences. The utilization of these laws for both new offenses and enhanced penalties for current offenses depend upon actions of prosecutors and the courts.

If additional persons were sentenced to the custody of the DOC due to the provisions of this proposal, the DOC would incur a corresponding increase in operational costs either through

ASSUMPTION (continued)

incarceration (average of \$35.61 per inmate, per day) or through supervision provided by the Board of Probation and Parole (average of \$2.47 per offender, per day).

At this time, the DOC is unable to determine the number of people that would be convicted under the provisions of this proposal to estimate the potential need for additional capital improvements. Estimated construction cost for one new medium- security inmate bed is \$48,300 (a maximum-security inmate bed is \$55,000). Utilizing this per bed cost provides for a conservative estimate by the DOC, as entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

Due to the wide variance of crimes and punishments including newly created crimes and punishments, the fiscal impact as it relates to the DOC is unknown, but estimated to be significant, or in excess of \$100,000 per year. If only three additional beds had to be constructed as a result of this proposal, the fiscal impact would be well over \$100,000. **Oversight** assumes this proposal could result in unknown costs in excess of \$100,000.

Oversight assumes this proposal could result in increased jail time and therefore has ranged the costs from \$0 to (unknown).

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
GENERAL REVENUE FUND			
<u>Cost - Department of Corrections</u>			
Increased incarcerations and increased probation and parole	(Unknown, to exceed \$100,000)	(Unknown, to exceed \$100,000)	(Unknown, to exceed \$100,000)
HIGHWAY FUND			
<u>Income - Department of Revenue</u>			
Reinstatement fees	\$32,725	\$38,070	\$38,070
<u>Cost - Department of Revenue(DOR)</u>			
Overtime Pay - Clerk Typist II	(\$6,080)	(\$7,296)	(\$7,296)
<u>FISCAL IMPACT - State Government</u> (continued)	FY 2001 (10 Mo.)	FY 2002	FY 2003

**ESTIMATED NET EFFECT ON
 HIGHWAY FUND**

\$26,645 \$30,774 \$30,774

FISCAL IMPACT - Local Government

FY 2001 FY 2002 FY 2003
 (10 Mo.)

LOCAL

Income - Cities

Reinstatement Fees \$6,345 \$7,614 \$7,614

Income - County Aid Road Trust Fund

Reinstatement Fees \$4,230 \$5,076 \$5,076

Cost - Local Jails

Increased jail time \$0 to \$0 to \$0 to
 (Unknown) (Unknown) (Unknown)

**ESTIMATED NET EFFECT ON
 LOCAL FUNDS**

\$10,575 \$12,690 \$12,690
to to to
(Unknown) (Unknown) (Unknown)

FISCAL IMPACT - Small Business

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

DESCRIPTION

This proposal makes a number of changes to statutes regarding blood alcohol content traffic violations.

In its main provisions, the proposal:

DESCRIPTION (continued)

- (1) Changes the blood alcohol content (BAC) level necessary for a conviction of driving with

excessive BAC to .08. Currently, the BAC for this violation is .10 (Section 577.012, RSMo). The proposal also requires the license of an offender of this provision to be suspended for 90 days, an increase from the current 30-day suspension (Section 302.304);

(2) Increases the penalty for driving while intoxicated from a class B misdemeanor to a class A misdemeanor for the first offense. The proposal also deletes the provision allowing a suspended imposition of sentence for driving while intoxicated if the offender receives probation (Section 577.010);

(3) Creates the crime of "aggravated driving with excessive blood alcohol content," which is the operation of a motor vehicle with a BAC of .15. The penalties are a class D felony for the first offense, a class C felony for the second offense, a class B felony for the third offense, and a class A felony for the fourth and subsequent offenses (Section 577.015). No limited driving privileges are available (Section 302.309);

(4) Makes it an infraction for any person to consume or possess an open alcoholic beverage in a motor vehicle. Currently, it is a violation only to consume alcoholic beverages while operating a motor vehicle (Section 577.017);

(5) Creates the "dangerous persistent offender" category of driver, who has previously been found guilty of either involuntary manslaughter, certain types of assault, or 4 or more intoxication-related traffic offenses. This is a class A felony. (Section 577.023);

(6) Changes the definition of "persistent offender" to include offenders who have been found guilty of 3 or more intoxication-related offenses in 10 years. Persistent offenders are guilty of a class B felony. Currently, these offenders must have been found guilty of only 2 or more intoxication-related offenses in 10 years, and it is a class D felony (Section 577.023);

(7) Increases the number of violations necessary to be considered a "prior offender" from one to 2 intoxication-related offense in 5 years, which is a class C felony. Currently, prior offenders are guilty of a class A misdemeanor (Section 577.023);

(8) Creates the "repeat offender" category of offenders, which includes persons who have been found guilty of one intoxication-related traffic offense. Repeat offenders are guilty of a class D felony (Section 577.023);

(9) Repeals provisions allowing the expungement of alcohol-related driving offense records;
DESCRIPTION (continued)

(10) Expands the waterways included in violations relating to operation of water vessels to also cover the waters of Missouri. Currently, the waterways only include the Mississippi River, the

Missouri River, and the lakes of the state (Section 306.111);

(11) Increases the penalties for operating a vessel while intoxicated to a class A misdemeanor for a first violation, a class D felony for a second violation, a class C felony for a third violation, a class B felony for a fourth violation, and a class A felony for a fifth and subsequent violation. Currently, it is a class B misdemeanor for a first violation, a class A misdemeanor for a second violation, and a class D felony for a third and subsequent violation (Section 306.111);

(12) Creates the crime of operating a vessel at night while intoxicated, which is a class D felony for the first conviction, a class C felony for the second conviction, a class B felony for the third conviction, and a class A felony for the fourth and subsequent convictions (Section 306.111);

(13) Lowers the BAC for operating a vessel with excessive BAC from .10 to .08 and increases the penalty to a class A misdemeanor for the first violation and a class D felony for the second and subsequent violations. Currently, it is a class B misdemeanor for the first violation, a class A misdemeanor for the second violation, and a class D felony for the third and subsequent violations (Section 306.112); and

(14) Adds a third level of penalties to involuntary manslaughter by dividing it into first, second, and third degree offenses. Involuntary manslaughter in the first degree includes causing the death of another while operating a vehicle or boat in an intoxicated condition. Involuntary manslaughter in the first degree is increased from a class C to a class B felony. Involuntary manslaughter in the second degree is committed when a person recklessly causes the death of another and is a class C felony. Involuntary manslaughter in the third degree is acting with criminal negligence to cause the death of another, a class D felony (Section 565.024).

This legislation is federally mandated under the Transportation Equity Act for the 21st Century Restoration Act which requires states to enact Repeat Intoxicated Drivers Laws. It would not duplicate any other program, would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Department of Revenue
Department of Public Safety
- Missouri State Highway Patrol
- Missouri Water Patrol
Missouri Department of Transportation
State Courts Administrator
Office of the Attorney General
Office of Prosecution Services
State Public Defender



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