

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. NO.: 4075-01  
BILL NO.: HB 1818  
SUBJECT: Alcohol: Motor Vehicles  
TYPE: Original  
DATE: March 6, 2000

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	(Expected to exceed \$200,000)	(Expected to exceed \$200,000)	(Expected to exceed \$200,000)
Highway Fund	\$433,680	\$1,413,079	\$1,352,783
<b>Partial Estimated Net Effect on <u>All</u> State Funds*</b>	<b>\$433,680</b>	<b>\$1,413,079</b>	<b>\$1,352,783</b>

\*Does not include DOC or CTS costs, each expected to exceed \$100,000 annually.

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
<b>Local Government**</b>	<b>\$7,402</b>	<b>\$12,690</b>	<b>\$12,690</b>

\*\*Does not include unknown costs to local governments for increased mandated jail sentences.

Numbers within parentheses: ( ) indicate costs or losses

This fiscal note contains 10 pages.

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**FISCAL ANALYSIS**

ASSUMPTION

Officials of the **Missouri Department of Transportation, Department of Mental Health, Office of the Attorney General** and the **Office of Prosecution Services** assume this proposal would have no fiscal impact to their agencies.

Officials of the **State Courts Administrator (CTS)** assume this proposal would require chemical tests of drivers involved in serious accidents, and would create the crime of "recklessly contributing to an accident" a class B felony.

CTS officials would anticipate that this would be an additional charge; however, the level of crime could result in some cases becoming prolonged.

This proposal would also mandate a minimum incarceration of forty-eight hours for first offense DWIs and BACs with no SIS, and mandate a jail term of 10 consecutive days for some prior DWI offenders and 30 consecutive days for persistent offenders.

CTS officials assume this would result in a definite impact on local jail populations.

CTS officials would also anticipate a possibly significant increase in the number of trials requested. For example, in FY99, there were more than 13,900 persons who attended the first-level education program for DWI offenders. These persons were most likely all first offenders.

If this number opted for a trial rather than a guilty plea, the impact on the workload of judges, clerks and personnel involved in jury summoning could be quite significant. CTS officials assume there would also be an increase in the number of prior and persistent offenders opting for trial.

CTS officials assume this proposal would also increase the penalty for 1<sup>st</sup> offense BAC, and raise the alcohol level to .15. CTS staff were unable to predict the ramifications of these provisions.

CTS officials assume the total cost for the above provisions could far exceed \$100,000 in any given year.

Officials of the **State Public Defender (SPD)** assume that existing staff could provide representation for those persons charged with "Driving with Excessive Blood Alcohol Content of > .15%" and those 50-75 additional cases arising where indigent persons were charged with recklessly contributing to an accident. However, passage of more than one

ASSUMPTION (continued)

similar bill would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing the indigent accused in the additional cases.

Officials of the **Department of Revenue (DOR)** assume the provisions of this proposal creates a new offense of “recklessly contributing to an accident.” A person can be found guilty of this offense if he or she has a blood alcohol content of .08% or more and contributes to an accident that causes serious physical injury or results in death. The first conviction of this offense will result in a 180 day suspension of the driving privilege. The 180 day suspension will be followed by a one year limited driving privilege. A second conviction for “recklessly contributing to an accident” or a first conviction for “recklessly contributing to an accident” subsequent to a conviction for any other intoxication-related offense will result in a one year revocation of the driving privilege. This proposal eliminates the court’s ability to suspend imposition of sentence on a first conviction under 577.010. Under this proposal, a person commits the crime of “driving with excessive blood alcohol content” if he or she operates a vehicle with a blood alcohol content of .15% or more or if he or she operates a motor vehicle with a blood alcohol content of .10% or more subsequent to a prior intoxication-related offense.

This proposal includes the new offense of “recklessly contributing to an accident” in the definition of an “intoxication-related offense”, “persistent offender”, and “prior offender”. The Drivers License Bureau (DLB) estimates 4,338 additional convictions will be assessed points and added to the driving record.

The DLB will require two hours of Clerk Typist II overtime per day to handle the additional volume of convictions, for a total of 520 overtime hours at a total cost of \$6,080 in FY01 and \$7,296 in FY 02 and 03.

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

The current compliance rate for reinstatements on actions relating to driving while intoxicated is 26%. Using this compliance rate, the DLB estimates an additional \$50,760 collected in reinstatement fees.

4,338 suspensions/revocation actions per year.  $4,338 \times 26\%$  (current reinstatement percentage) = 1,128 additional fees received per year.  $1,128 \times \$45 = \$50,760$ .

ASSUMPTION (continued)

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FY01

\$50,760 : 12 months = \$4,230 x 7 months = \$29,610  
\$42,300 x 75% = \$22,208 Highway Fund  
\$42,300 x 15% = \$ 4,441 Cities  
\$42,300 x 10% = \$ 2,961 CART

FY02 and FY03

\$50,760 x 75% = \$38,070 Highway Fund  
\$50,760 x 15% = \$ 7,614 Cities  
\$50,760 x 10% = \$ 5,076 CART

In response to a similar proposal, officials of the **Department of Corrections (DOC)** assume penalty provision portions of this proposal which would have potential fiscal impact for the DOC are:

section 577.012.1. --

- ▶ the BAC level for "driving with excessive blood alcohol content" would be raised from 10/100 to 15/100 of one percent or more by weight of alcohol in person's blood, except it remains 10/100 of one percent when prior intoxication-related traffic offenses exist. The first offense for this charge would be elevated to a class A misdemeanor -- the DOC impact would be for supervision for probation\*;

section 577.023.1. --

- ▶ adds 'recklessly contributing to an accident' to the definition of : an "intoxication-related traffic offense" in (1); and criteria of a "persistent offender" in (2), which would be punishable as a class D felony -- the DOC impact would be for probation, parole and/or incarceration; and

section 1. --

- ▶ creates the "Ferrara Act," which would define "recklessly contributing to an accident" as a person driving with greater than 8/100 of one percent BAC and contributing to an accident which resulted in serious physical injury or death. Recklessly contributing to an accident would be a class B felony. An actor would not be tried or convicted pursuant to this section if charged with another offense arising from the same occurrence. Violators would receive the maximum suspension or revocation provided by law -- the DOC impact would be for probation, parole and/or incarceration.

ASSUMPTION (continued)

PMM:LR:OD:005 (9-94)

New commitments which could result from the creation of the offense(s) outlined in this proposal cannot 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 are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC would incur a corresponding increase in operational costs either through incarceration (average of \$35.00 per inmate, per day, at a minimum) or through supervision provided by the Board of Probation and Parole (average of \$3.50 per offender, per day, at a minimum).

In a fiscal note to a similar proposal, Oversight reported that based on a MHP *Study of the Processing of DWI Arrests in Missouri*, it was estimated that nearly 60% of individuals arrested for DWI would test in excess of .15%. MHP officials stated that there were 38,117 DWI arrests in 1997.

\* These MHP statistics describe the potential target group for the first-offense misdemeanor offenders noted above as having fiscal impact for the DOC. The potential probation caseload for this group alone is significant.

In summary, due to the wide variance of crimes and punishments, and related to the high numbers reflected in the above statistics, the fiscal impact as it relates to the DOC is unknown, but estimated to be significant, or over \$100,000 per year.

At this time, the DOC was 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 inmate bed is \$48,300. Utilizing this per diem 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. The total ten year fiscal impact to DOC would be unknown, but DOC officials assume it would be in excess of \$100,000 per year.

In response to a similar proposal from 1999, Officials of the **Missouri Highway Patrol (MHP)** stated that based on 1997 accident statistics, 52,808 drivers would have qualified to be tested under this proposal. For every person that is arrested and a breath, blood, or blood/urine test is performed, the state recoups fees for the tests.

ASSUMPTION (continued)

A breath test recoups \$18, a blood test for alcohol recoups \$26, and a blood/urine test for drugs recoups \$75. Additionally, the Patrol recoups \$26 per hour for the transportation and testing of the arrested. The arrested individual pays these fees which are deposited into the State Highway Funds, and these fees are based on the actual law enforcement costs involved.

Assuming the intent of this proposal would be to check for all drugs, the state would collect 52,808 sets of officer time (\$26) and tests (max of \$75) for a total of \$5,333,608 [(52,808 x \$26) + (52,808 x \$75)] or a minimum of \$2,323,552 [(52,808 x \$26) + (52,808 x \$18)].

The costs associated with the blood alcohol test for material, labor and depreciation of equipment is \$26 per test. The costs associated with the blood/urine test for one drug is \$75, while testing for two drugs cost \$102.50.

**MHP's Field Operations Bureau** officials stated that though the cost for testing for one drug is \$75, testing for two drugs cost \$102.50, so there is the potential for extra cost being involved anytime MHP test for two drugs. However, the vast majority of cases should involve testing for only one, and MHP based their fiscal note on that assumption.

Due to the large number of accidents involved and medical personnel being able to administer chemical tests, MHP officials were not able to determine the number of additional personnel that could be needed to meet the demands this proposal would require.

Officials of **MHP's Crime Laboratory Division** stated that in order to analyze the additional tests, MHP would request an additional 51 Criminalists (51 FTE at \$28,896 per year). Currently, 3,083 blood and/or urine tests are performed by an estimated 3 FTE. This averages to 1,000 test per Criminalist per year. Under the assumption that all 52,808 drivers would be tested, the Crime Lab would require an estimated 51 Criminalists to analyze the blood and/or urine tests (3,083/3 FTE = 1,028). Then, take 52,808/1,028 = 51). Additionally, these FTE would require a building, standard office equipment, standard expenses and Gas Chromatograph/Mass Spectrometers for the testing. It is also assumed that each test performed is a blood/urine test to test for alcohol and other drugs, costing \$75 each.

**MHP's Public Information and Education Division** officials stated in order to educate the public regarding this new law and the new crime, the MHP would need to print new brochures with explanations and update current brochures. The estimated maximum cost for the new and corrected brochures would be \$20,000. After this initial supply is created, normal funding would allow for restocking of the new brochures.

ASSUMPTION (continued)

**Oversight** assumes that MHP would routinely update those brochures to reflect all the new laws

that pass and any changes made to the laws in the legislative session and therefore, this would be a cost covered within the normal budget.

**Oversight** assumes for purposes of this fiscal note that the additional FTE could work in three shifts to maximize the efficiency of office space and equipment. Therefore, Oversight has allowed one Gas Chromatograph/Mass Spectrometer for every three FTE. In addition, MHP could lease office space for the additional FTE without constructing a new building. Office of Administration (COA) guidelines suggest 200 sq. ft. per FTE at \$8.60/sq. ft. in Cole County. Again, if MHP were to run the additional Criminalists in three shifts, space would only be necessary for 17 FTE. This would calculate to a cost of \$29,240 for office space (200 sq. ft. x 17 FTE = 3,400 sq. ft. x \$8.60 = \$29,240). COA guidelines suggest \$1.00 per sq. ft. for Janitorial/Trash and \$1.60 per sq. ft. for Utilities per FTE. This would be an additional cost of \$8,840 per year ( $\$1.00 + \$1.60 = \$2.60 \times 3,400 \text{ sq. ft.} = \$8,840$ ).

**Oversight** assumes there would not be an increase in the number of accidents as a result of this proposal; therefore, MHP would not require additional patrolmen to carry out the provisions of this proposal. Because MHP "recoups" \$26 per hour for the transportation and testing of the arrested, Oversight assumes the overall fiscal impact would be positive.

**Oversight** assumes there would be costs to local governments resulting from increased mandated jail sentences as a result of this proposal

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
<b>GENERAL REVENUE FUND</b>			
<u>Cost - State Courts Administrator (CTS)</u>			
Increased trials	(Expected to exceed \$100,000)	(Expected to exceed \$100,000)	(Expected to exceed \$100,000)
<u>Cost - Department of Corrections (DOC)</u>			
Increased incarcerations	(Expected to exceed \$100,000)	(Expected to exceed \$100,000)	(Expected to exceed \$100,000)
<u>FISCAL IMPACT - State Government</u> (continued)	FY 2001 (10 Mo.)	FY 2002	FY 2003

**NET EFFECT TO GENERAL**

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<b>REVENUE FUND</b>	<b>(Expected to exceed \$200,000)</b>	<b>(Expected to exceed \$200,000)</b>	<b>(Expected to exceed \$200,000)</b>
<b>HIGHWAY FUND</b>			
<u>Income - Department of Revenue (DOR)</u>			
Reinstatement fees	\$22,208	\$38,070	\$38,070
<u>Income - Missouri State Highway Patrol (MHP)</u>			
Recouping testing fees	\$5,333,608	\$5,333,608	\$5,333,608
Total <u>Income</u> to Highway Fund	\$5,355,816	\$5,371,678	\$5,371,678
<u>Cost - Department of Revenue (DOR)</u>			
Overtime hours - Clerk Typist II	(\$6,080)	(\$7,296)	(\$7,296)
<u>Cost - Missouri State Highway Patrol (MHP)</u>			
Personal Service (51 FTE)	(\$1,258,278)	(\$1,548,302)	(\$1,587,009)
Fringe Benefits	(483,305)	(594,703)	(609,570)
Expense and Equipment	(3,174,473)	(1,808,298)	(1,815,020)
Total Cost - MHP	(\$4,916,056)	(\$3,951,303)	(\$4,011,599)
Total <u>Cost</u> to Highway Fund	(\$4,922,136)	(\$3,958,599)	(\$4,018,895)
<b>ESTIMATED NET EFFECT TO HIGHWAY FUND</b>	<b><u>\$433,680</u></b>	<b><u>\$1,413,079</u></b>	<b><u>\$1,352,783</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
<u>Income - Political Subdivisions</u>			
from reinstatement fees			
Cities	\$4,441	\$7,614	\$7,614
Counties	<u>2,961</u>	<u>5,076</u>	<u>5,076</u>
Total <u>Income</u> to Political Subdivisions	\$7,402	\$12,690	\$12,690
 <u>Cost - Local Governments</u>			
Mandated incarcerations in local jails	(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 changes to provisions relating to driving while intoxicated. The proposal:

- (1) Creates the class B felony of recklessly contributing to an accident, which is committed when the offender with a blood alcohol content (BAC) of more than .08 contributes to an accident resulting in serious physical injury or death (Section 577.058);
- (2) Provides that the penalty for recklessly contributing to an accident for a first conviction is suspension of the offender's driver's license for 180 days, during which time limited driving privileges are available. This period is to be followed with a limited license to last one year. For a second conviction, or a first conviction of recklessly contributing to an accident subsequent to a conviction for any other intoxication-related offense, the offender's license is suspended for one year, with limited driving privileges available (Section 577.058);
- (3) Includes recklessly contributing to an accident in the list of offenses that may be considered in determining persistent and prior offender status (Section 577.023);
- (4) Allows for automatic consent to a breath, blood, saliva, or urine test if a person is involved in and arrested for a motor vehicle accident resulting in serious physical injury or death (Section 577.020);

DESCRIPTION (continued)

(5) Increases the penalties for persistent and prior offenders. The proposal requires 10 days of imprisonment for prior offenders and 30 days for persistent offenders. Currently, prior and persistent offenders must serve only 48 hours imprisonment, which may be waived in lieu of community service (Section 577.023);

(6) Changes the offense of driving with excessive blood alcohol content to apply to offenders with a BAC of .15 or to offenders operating a motor vehicle with a BAC of .10 or more subsequent to a prior intoxication-related offense. Currently, the crime is committed when an offender drives with a BAC of .10. The proposal increases the penalty for driving with excessive blood alcohol content from a class C to a class A misdemeanor. The proposal further requires that first-time offenders must be incarcerated for 48 hours and eliminates eligibility for a suspended imposition of sentence (Section 577.012); and

(7) Changes the penalty for the crime of driving while intoxicated. The proposal requires 48 hours of incarceration for first-time offenders, with no possibility of a suspended-imposition of sentence. Currently, no incarceration is required, and a suspended imposition of sentence may be granted if the offender is placed on probation for 2 years (Section 577.010).

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

SOURCES OF INFORMATION

Office of the Attorney General  
State Courts Administrator  
Department of Revenue  
Department of Public Safety  
Department of Corrections  
Office of Prosecution Services  
State Public Defender  
Missouri Department of Transportation



Jeanne Jarrett, CPA  
Director  
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