

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1388-01
Bill No.: HB 476
Subject: Alcohol; Crimes and Punishment; Law Enforcement; Officers and Agencies;
 Revenue Dept.
Type: Original
Date: March 14, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(\$2,427,319)	(\$6,672,083)	(\$8,580,003)
Total Estimated Net Effect on <u>All</u> State Funds	(\$2,427,319)	(\$6,672,083)	(\$8,580,003)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator** assume there would be more appeals cases but would not expect a significant impact on the judicial budget.

Officials from the **Department of Revenue** assume the proposal would have no impact on the Department of Revenue since the point accumulation remains the same as under the current excessive BAC crime provisions.

Officials from the **Department of Transportation** assume no fiscal impact to their organization since this legislation creates a new alcohol-related intoxication offense, "driving with extreme BAC". A person is guilty of this offense if they operate a motor vehicle with .15 or more BAC. The bill does not eliminate the crime of "driving with an excessive BAC".

Officials from the **Office of State Public Defender** assume no fiscal impact to their organization.

Officials from the **Office of Prosecution Services** assumed no fiscal impact to their organization.

Officials from the **Department of Corrections (DOC)** assume this proposal creates a new offense of driving with a .15% BAC and upgrades the penalties for BAC .10% for the new offense.

This legislation has the potential for a significant increase in the numbers of offenders either supervised by the Board of Probation and Parole or incarcerated. From the Department of Health results of breath and blood tests for alcohol concentration in 1999 indicated that 59% of samples that were over .10% were also over .15%. This indicates that 59% of all DWI convictions could be at the higher sentencing proposed for Driving with .15% BAC.

The following analysis combines BAC and DWI offenses as equivalent and the number of offenders charged under either offense being dependent upon which offense carries the highest penalty.

ASSUMPTION (continued)

Impact Assessment

1. First offense .15% BAC becomes a Class A misdemeanor instead of a Class C misdemeanor for .10% BAC

At present Class C misdemeanors are not supervised by the Board of Probation and Parole and the DOC has no information on the number of offenders who may now receive a probation. The State Courts Administrator have reported a total of 12,179 convictions in 1999 for first offense DWI/BAC which means 7,186 convictions for .15% BAC (59%). Only a portion of this figure are expected to receive probation sentences. In 1999 31% of convictions for DWI prior offender (also a class A misdemeanor) received a probation sentence (732 probations/ 2,357 court convictions). It is projected, therefore, that 31% of the 7,186 convictions will receive probation sentences (2,227). The average misdemeanor probation sentence was 2 years.

Impact is 2,227 new two year probation sentences per year beginning in FY02

2. Prior Offenders .15% BAC becomes a Class D felony instead of a Class A misdemeanor

In FY00 there were 740 new probations for DWI prior offenders, of which 437 (59%) would be sentenced as a Felony D. In FY00 56% of felony D DWI persistent offenders received a prison sentence and the average sentence was 8.4 months (including 120-day sentences). The impact is, therefore, 56% of 437 offenders (245) will serve 8.4 months in prison and the impact would be in FY02.

Impact is 171 inmates per year beginning in FY02 and there is an estimated offsetting reduction of 171 probationers per year

3. Persistent Offenders .15% BAC becomes a Class C felony instead of a Class D felony

In FY00 there were 902 DWI third offenders received by the DAI of which 532 (59%) would receive a Class C felony. A Class C felony conviction would be expected to increase the average sentence and to reduce the likelihood of a 120-day sentence compared to a Felony D conviction. In FY00 the average time served by C class felony releases was 13.3 months and 10.0 months for D class felony releases, an increase of 33%. Applying this ratio to the average time served by DWI persistent offenders in FY00 (8.4 months) gives an estimated time served of 11.2 months, an increase of 2.8 months. Impact per year is $523 * 2.8 / 12 = 124$ inmates per year and the impact would begin after the existing term was served. There is estimated to be no impact on supervision costs because the probation to prison ratio for Class C felonies is similar to Class D felonies.

Impact is 124 inmates per year. 30% would impact in FY02 and the remainder would impact in FY03.

ASSUMPTION (continued)

4. Total Impact

In FY02

Prison Costs 208 (171+37) inmates per year Supervision Costs: 2,227 probationers per year

From FY03

Prison Costs 295 (171+124) inmates per year Supervision Costs: 4,454 probationers per year

It is estimated the increase in population will increase incrementally over the fiscal year. For cost estimates, a snapshot of the midyear average population was used to determine fiscal impact.

Assumptions used to determine cost and rounded to the nearest whole number include:

- > \$35.61 (FY99 cost) inmate per capita costs with an inflation rate of 3% per each subsequent year.
- > \$2.47 (FY99 cost) supervision costs with an inflation rate of 3% per each subsequent year.

Total impact of additional incarcerations and additional cost for supervision of probationers and parolees for Department of Corrections is estimated at \$2,427,319, \$6,672,083, and \$8,580,003 for FY 2002, 2003, and 2004, respectively.

At this time, the DOC is unable to determine if additional capital improvements would be required. Estimated construction cost for one new medium-security inmate bed is \$48,300 at FY99 average costs. A maximum security inmate bed is \$55,000, also using FY99 average costs. 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.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
GENERAL REVENUE			
Cost - Department of Corrections			
Additional incarcerations and probation and parole supervision	(\$2,427,319)	(\$6,672,083)	(\$8,580,003)
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$2,427,319)</u>	<u>(\$6,672,083)</u>	<u>(\$8,580,003)</u>

FISCAL IMPACT - Local Government

FY 2002
(10 Mo.)

FY 2003

FY 2004

\$0

\$0

\$0

FISCAL IMPACT - Small Business

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

DESCRIPTION

This proposal would create the crime of driving with extreme blood alcohol content. Drivers license points and criminal penalties would be established, for first and subsequent offenses.

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

SOURCES OF INFORMATION

Office of State Courts Administrator
Department of Revenue
Department of Transportation
Office of State Public Defender
Office of Prosecution Services
Department of Corrections

NOT RESPONDING

Missouri Highway Patrol



Jeanne Jarrett, CPA
Director
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