

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0228-09
Bill No.: Truly Agreed To and Finally Passed HCS for SCS for SBs 10 & 27
Subject: Crimes and Punishment; Law Enforcement Officers and Agencies; Pharmacy
Type: Original
Date: April 28, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
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 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator, Department of Public Safety - Missouri State Highway Patrol** and **Office of Prosecution Services** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development - Division of Professional Registration (DED-PR)** state having reviewed the proposed legislation and having sought the conclusion of the appropriate board(s), they are of the opinion the proposal, in its present form, will have no fiscal impact on the DED-PR. However, should additional requirements be imposed on the Board of Pharmacy, additional expenses may be incurred by the Board of Pharmacy.

Officials from the **Department of Health and Senior Services (DOH)** state the proposal would not be expected to fiscally impact the operations of the DOH. If an impact were to result, funds to support the program would be sought through the appropriations process.

ASSUMPTION (continued)

Officials from the **Office of Secretary of State (SOS)** state the proposal requires pseudoephedrine products to be sold by a pharmacist or technician. This proposal may result in the Department of Health and Senior Services promulgating rules to implement the legislation. These rules will be published in the Missouri Register and the Code of State Regulations. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Health and Senior Services could require as many as 18 pages in the Code of State Regulations. For any given rule, roughly one-half again as many pages are published in the Missouri Register as are published in the Code because of cost statements, fiscal notes and notices that are not published in the Code. The estimated cost of a page in the Missouri Register is \$23. The estimated cost of a page in the Code of State Regulations is \$27. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules, filed, amended, rescinded, and withdrawn. The SOS estimates the cost of the proposal to be \$ [(18 pgs. X \$27) + (27 pgs. X \$23)] for FY 06.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Corrections (DOC)** did not respond to our request for a statement of fiscal impact. However, in response to similar legislation proposed this session, the DOC stated they cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitment 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 through either incarceration (FY 04 average of \$38.37 per inmate per day or an annual cost of \$14,005 per inmate) or through supervision provided by the Board of Probation and Parole (FY 03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender per year).

DOC assumed the narrow scope of the crime will not encompass a large number of offenders. The low felony status of the crime enhances the possibility of plea-bargaining or the imposition of a probation sentence. The probability also exists that offenders would be charged with a similar but more serious offence of that sentences may run concurrent to one another.

Supervision by the DOC through probation or incarceration would result in some additional costs, but was assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

ASSUMPTION (continued)

Officials from the **Office of State Public Defender (SPD)** did not respond to our request for a statement of fiscal impact. However, in response to an earlier version of this proposal, the SPD assumed the proposal would have no fiscal impact on their organization.

<u>FISCAL IMPACT - State Government</u>	FY 2006	FY 2007	FY 2008
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2006	FY 2007	FY 2008
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

The proposal will have an impact on small business pharmacies and other retail establishments that sell pseudoephedrine due to additional administrative requirements.

DESCRIPTION

This proposal creates restrictions regarding the sale of products containing ephedrine and pseudoephedrine.

The proposal places ephedrine, its salts, optical isomers and salts of optical isomers, when it is the only active medicinal ingredient, on Schedule IV for controlled substances. The proposal also places any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine or ephedrine on Schedule V for controlled substances. However, products in a liquid or liquid-filled gel capsule form are excluded.

If any of the compounds, mixtures, or preparations containing ephedrine or pseudoephedrine on Schedule V are dispensed, sold, or distributed in a pharmacy without a prescription, they must be sold from behind a pharmacy counter where the public is not permitted and by a pharmacist or registered technician. Within 30 days of this act becoming effective, it must be ensured that the products are for sale behind the counter. Anyone buying these products must be at least 18 years old. The pharmacist must have a person buying these products furnish a photo ID showing his or her birth date if the pharmacist does not know the person.

DESCRIPTION (continued)

Within 90 days of this proposal becoming effective, pharmacists and technicians must maintain a written or electronic log of each transaction. The log must include information, such as the name and address of the purchaser, the amount of the product purchased, the date of the purchase, and the name of the pharmacist or technician who dispensed the product. People selling liquid and gel capsules are exempt from this requirement. All the logs, records and documents maintained about these products shall be open for inspection and copying by law enforcement officers.

Within 30 days of this proposal becoming effective, any business selling these products that does not have a state and federal controlled substances registration must return them to a manufacturer or distributor or transfer them to a registrant.

Any person who violates these provisions is guilty of a Class A misdemeanor.

Manufacturers may apply with the Department of Health and Senior Services for exemption from the Schedule and the Department may grant such an exemption if the product is not used to illegally manufacture methamphetamine or other drugs. The Department will also create rules on how the pseudoephedrine and ephedrine products on Schedule V will be stored.

Currently, only the amount of ephedrine or pseudoephedrine that can be purchased at one time is limited. This proposal provides that no person can sell or dispense, and no one can purchase or receive products containing more than nine grams of ephedrine or pseudoephedrine within a 30 day period.

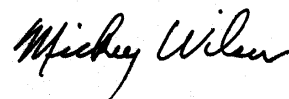
This proposal has an emergency clause.

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 Attorney General
Office of State Courts Administrator
Department of Economic Development -
 Division of Professional Registration
Department of Health and Senior Services
Department of Public Safety -
 Missouri State Highway Patrol
Office of Prosecution Services
Office of Secretary of State

NOT RESPONDING: Department of Corrections and Office of State Public Defender



Mickey Wilson, CPA
Director
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