

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0397-04
Bill No.: HCS for SCS for SB 93
Subject: Roads and Highways; Transportation Department; Drunk Driving/Boating
Type: Original
Date: April 27, 2009

Bill Summary: This proposal establishes the Drunk Driving Risk Reduction Awareness Program.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue Fund	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on FTE	0	0	0

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Missouri Department of Transportation** assumes no fiscal impact. The total cost of one sign for a ten year period will be \$1,030. Based on statistics from the safety division, Missouri averages about 270 alcohol related fatalities per year. If signs are made in each instance, this would result in a total cost of \$278,100 per year. As stated in the bill, the cost will be paid by private donations for each 10 year term the signs are displayed.

Officials at the **Missouri Highway Patrol, Department of Health and Senior Services, Office of the State Courts Administrator, Department of Revenue and Office of Prosecution Services** assume that there is no fiscal impact from this proposal.

Officials at the **Department of Corrections (DOC)** assume that absent of the court requirement that the service would be paid for by the offender or an alternate source, DOC would be required to pay the vendor costs associated with providing the service for "continuous alcohol monitoring" and "verifiable breath alcohol testing" for offenders. The costs of supervision for offenders with this requirement would be an unknown amount. In addition there is the possibility of an increased revocation rate of probation or parole offenders due to passage of this proposal. Additional substances in §578.255. and .265. that would now be illegal expand the class C felony that currently exists for violating these provisions.

Currently, the DOC cannot predict the number of new commitments which may result from the expansion of the offense(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 direct offender cost either through incarceration (FY08 average of \$15.64 per offender, per day or an annual cost of \$5,709 per inmate) or through supervision provided by the Board of Probation and Parole (FY08 average of \$2.47 per offender, per day or an annual cost of \$902 per offender).

DOC assumes the fiscal impact due to passage of this proposal, is Unknown.

Oversight assumes, pursuant to the legislation, the courts may require the offender to bear any costs associated with continuous alcohol monitoring or verifiable breath alcohol testing. Oversight assumes DOC would incur the monitoring and testing costs for offenders who were not required by the courts to pay the costs and for offenders who fail to pay such costs.

ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

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.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
GENERAL REVENUE			
<u>Cost - Department of Corrections</u> alcohol monitoring costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2010 (10 Mo.)	 FY 2011	 FY 2012
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This act modifies various provisions relating to intoxication offenses.

Drunk Driving Risk Reduction Awareness Program - Under this act, the Department of Transportation shall establish and administer a drunk driving risk reduction awareness program. This act shall be known as "David's Law." The signs shall be placed at or near the scene of the accident. Under the act, signs shall be attached to an existing highway sign, street light, or guard rail. The signs shall be placed upon the state highways in accordance with placement guidelines adopted by the department, and any applicable federal limitations or conditions on highway signage, including location and spacing.

The department shall adopt, by rules and regulations, program guidelines for the application for and placement of signs authorized by this section, including, but not limited to, the sign application and qualification process, the procedure for the dedication of signs, and procedures for the replacement or restoration of any signs that are damaged or stolen.

Any person may apply to the Department of Transportation to sponsor a drunk driving victim memorial sign in memory of an immediate family member who died as a result of a motor vehicle accident caused by a person who was shown to have been operating a motor vehicle in violation of an alcohol-related traffic law at the time of the accident. Upon the request of an immediate family member of the deceased victim involved in a drunk driving accident, the department shall place a sign in accordance with the provisions of the act. A person who is not a member of the victim's immediate family may also submit a request to have a sign placed under this section if that person also submits the written consent of a victim's immediate family member. The department shall charge the sponsoring party a fee to cover the department's cost in designing, constructing, placing, and maintaining the sign. Signs erected under the act shall remain in place for a period of ten years. After such date, the signs may be renewed for another 10 years after payment of appropriate maintenance fees.

The signs developed by the department shall resemble a Missouri license plate and shall feature the words "Drunk Driving Victim!", the initials of the deceased victim, the month and year in which the victim of the drunk driving accident was killed, and the phrase "Who's Next?".

Under the act, all private roadside memorials or markers commemorating the death of a drunk driving victim are prohibited. No person, other than a Department of Transportation employee or the department's designee, may erect a drunk driving victim memorial sign (section 227.295).

Continuous Alcohol Monitoring - This act allows the court, as a condition of probation or parole, to require certain persons convicted of intoxication-related traffic offenses to submit to alcohol

FISCAL DESCRIPTION (continued)

monitoring in certain circumstances instead of serving a more lengthy sentence.

The term "continuous alcohol monitoring" means automatically testing alcohol concentration levels and tampering attempts, regardless of the location of the person wearing the device, at least once each hour and regularly transmitting the data.

In addition to other terms of probation or parole, a court shall consider requiring an offender convicted of an intoxication-related traffic offense to abstain from consuming alcohol as demonstrated by continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four times per day for a length of time established by the court. The court may require the offender to bear any costs associated with continuous alcohol monitoring or verifiable breath alcohol testing.

Under the act, a licensed physician, registered nurse, or trained medical technician, acting at the request and direction of the law enforcement officer, shall withdraw blood for the purpose of determining a person's blood alcohol level, unless such person believes that such procedure endangers the life or health of the person in custody. Blood may be withdrawn only by such medical personnel but this restriction does not apply to the taking of a breath test, saliva specimen, or urine specimen. Withdrawing blood shall only be done with an unused and sterile needle and be done in strict accord with accepted medical practices. The person in custody whose blood is being taken may request full information regarding the test from the law enforcement officer (section 577.032).

Alcohol Beverage Vaporizer - This act prohibits any person from possessing or using an alcoholic beverage vaporizer. Such a vaporizer is defined as "any device which, by means of heat, a vibrating element, or any other method, is capable of producing a breathable mixture containing one or more alcoholic beverages to be dispensed for inhalation into the lungs via the nose or mouth or both." Also, no person shall intentionally induce or abuse solvents or ethyl alcohol. This act does not apply to substances that are FDA-approved or administered by a medical practitioner.

These provisions shall not be construed to prohibit the legal consumption of intoxicating liquor, including wine and beer, and nonintoxicating beer (section 578.255).

This act also prohibits the inhalation, selling, or possession of certain solvents to induce intoxication (section 578.265).

This legislation is not federally mandated, would not duplicate any other program and would not

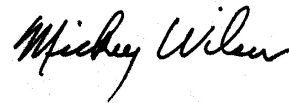
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FISCAL DESCRIPTION (continued)

require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Missouri Department of Transportation
Missouri Highway Patrol
Department of Health and Senior Services
Office of the State Courts Administrator
Office of Prosecution Services
Department of Revenue
Department of Corrections



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