

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4453-01
Bill No.: HB 1695
Subject: Alcohol; Motor Vehicles; Licenses - Driver's
Type: Original
Date: January 27, 2010

Bill Summary: This proposal revises laws relating to driving while intoxicated.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(Expected to exceed \$2,590,852)	(Expected to exceed \$3,166,865)	(Expected to exceed \$3,249,852)
Total Estimated Net Effect on General Revenue Fund	(Expected to exceed \$2,590,852)	(Expected to exceed \$3,166,865)	(Expected to exceed \$3,249,852)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Highway Fund	(\$577,080)	(\$33,874)	(\$33,874)
Various State Funds	\$2,277,898	\$2,277,898	\$2,277,898
Total Estimated Net Effect on <u>Other</u> State Funds	\$1,700,818	\$2,244,024	\$2,244,024

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 16 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	42 FTE	42 FTE	42 FTE
Total Estimated Net Effect on FTE	42 FTE	42 FTE	42 FTE

- 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 2011	FY 2012	FY 2013
Local Political Subdivisions	\$303,868	\$303,868	\$303,868

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services** and the **Department of Mental Health** state this proposed legislation would have no fiscal impact on their respective agencies.

Officials from the **Office of the Governor** anticipate there should be no added cost to the Governor's Office as a result of this proposal.

Officials from the **Department of Public Safety - Office of the Director** assume any costs to their agency associated with this proposal can be absorbed with existing resources.

According to officials from the **Office of Prosecution Services (OPS)**, this proposed legislation will have no measurable fiscal impact on their agency. The potential fiscal impact on county prosecuting attorneys will necessarily depend on the extent to which law enforcement agencies enforce these provisions. If law enforcement agencies make arrests under these provisions, there may be a fiscal impact based on the additional cases that may be filed without providing any additional resources for the prosecuting attorney's offices.

According to officials from the **Office of Secretary of State (SOS)**, many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the proposal. 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.

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 Public Safety - Missouri State Highway Patrol (MHP)** provided the following assumptions regarding this proposed legislation:

The Traffic Division states that entry of data into the Driving While Intoxicated System (DWITS) is normally accomplished through direct entry into the system through a secure Internet connection. There would be no fiscal impact to the state with law enforcement agencies using this method. However, extractions of data into the DWITS from law enforcement agency Records Management Systems (RMS) can be established. The MHP DWITS consultant

ASSUMPTION (continued)

indicated the cost for MHP to establish one extraction program from a single RMS could cost as much as \$13,000. Approximately 37 commercial vendors operate records management systems statewide along with several local systems not operated by a commercial vendor. The commercial vendors represent approximately 271 agencies. It is possible a single extract program for a specific vendor's RMS could be written that would work with all agencies using that vendor's RMS; however, there may be additional programming that would have to take place with some or all of a vendor's customers. The cost to test each participating vendor could be as much as \$13,000. If all 37 vendors choose to participate, the cost will be approximately \$481,000 (\$13,000 x 37 RMS). MHP assumes that everyone will choose to participate. It may be possible to use federal funds through the Missouri Department of Transportation's Highway Safety Division to fund these projects. However, for purposes of this fiscal note, MHP assumes costs would be from the Highway Fund.

The Information Systems Division states that new reports would be required to gather the data received into DWITS and maintain regular accountability reports of alcohol-related arrest, charges, and dispositions. Development costs are estimated to be 220 hours at the current contract rate of \$82 per hour for a cost of \$18,040 (220 hours x \$82). In addition, new accountability reporting will be required per §577.005.5 as part of the reporting duties of the MHP to the Department of Public Safety and the Governor. These development costs are estimated to be 220 hours at the current contract rate of \$82 per hour for a cost of \$18,040 (220 hours x \$82). Because the current DWI system is Internet-based, a new WEB Infrastructure upgrade and server would be required to accommodate the additional users (i.e., all criminal justice agencies including law enforcement, prosecutors and courts). The cost of the upgrade and server is estimated to be \$40,000 (WEB Infrastructure upgrade \$30,000; server \$10,000).

Yearly software maintenance for ongoing support to the DWITS application for bug fixes and upgrades starting with year two is estimated to be 400 hours at the current contract rate of \$82 per hour for a cost of \$32,800 (400 hours x \$82).

Officials from the **Office of Administration - Information Technology Services Division (OA-ITSD)** assume the needed bandwidth is available to handle the traffic that may occur in the entry of data in the DWITS and from the courts accessing the data.

Officials from the MHP also provided the following assumptions regarding impact on local law enforcement, prosecutors, and courts:

This proposal will require law enforcement agencies to enter alcohol-related arrest information into DWITS and will require prosecutors to enter their actions into the system as well. Courts

ASSUMPTION (continued)

are required by §577.051 and 302.225, RSMo to forward dispositions related to intoxication-related offenses to the Department of Revenue (DOR). DOR is then required to forward that information to the Patrol for entry into the DWITS. Therefore, entry of disposition information by the courts is not needed or even possible.

Entry of data into the DWITS is normally accomplished through manual entry into the system through a secure Internet connection. There could be a fiscal impact to law enforcement and prosecutors if they choose to use this new method. The impact would include computer hardware and Internet access. It may also include additional personnel if the department is large and a substantial amount of data has to be entered.

Extractions of data into the DWITS from law enforcement agency records management systems (RMS) can be established. The MHP DWITS consultant indicated the cost for a local department to establish one extraction program from their RMS could cost as much as \$16,000.

Officials from the **Department of Corrections (DOC)** assume that transferring DWI cases from municipal to state court for prior offenders will cause a fiscal impact for the DOC. These offenders would now be supervised or incarcerated by the DOC. Additional treatment sources could also be needed to meet the growing number of referrals.

Currently, the DOC cannot predict the number of new commitments which may result from the creation 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 proposed legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY09 average of \$16.04 per offender, per day, or an annual cost of \$5,855 per inmate) or through supervision provided by the Board of Probation and Parole (FY09 average of \$3.71 per offender, per day or an annual cost of \$1,354 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eighteen (18) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. It is estimated that potential costs will be in excess of \$100,000 per year.

Officials from the **Office of State Public Defender (SPD)** state that in FY 2009, the State Public Defender System provided representation in 3,677 state Driving While Intoxicated cases and

ASSUMPTION (continued)

5,413 Driving While Revoked cases. If these numbers increase by just 10%, the State Public Defender would require funds to contract out an additional 900 cases. At an average cost of \$375 per case, the additional costs would be \$337,500.

In addition, the new crimes of Refusal to Submit to Chemical Test of Blood Alcohol Levels and Driving With a BAC of greater than .15 would also be new Class A Misdemeanors. Statewide, SPD estimates at least 200 indigent persons stopped over a year's time would refuse the test or blow greater than .15. SPD assumes 200 new contract cases at a average cost of \$375 = \$75,000.

Officials from the **Office of State Courts Administrator** state the proposed legislation would have significant financial impact on both the circuit and municipal courts and would require cases to be transferred or filed with the circuit courts.

The following cases would be required to be transferred or filed with the circuit courts:

- 1) Any driving while intoxicated offenses with prior intoxicated-related traffic offenses or alcohol-related contacts
- 2) Any driving while intoxicated offenses with blood alcohol content (BAC) of .15 or more
- 3) Any offense involving the refusal to submit to a chemical test

Based on these additional filings, CTS estimates 16,200 cases will be added to the circuit court caseload, an increase of approximately 13%. According to CTS judicial and clerical weighted workload studies, it takes approximately 24 minutes of judicial time to process a misdemeanor case and 225 minutes of clerical time. The increase in workload would require 5 additional associate circuit judges and 36 court clerks.

The personnel cost for an individual associate circuit judge and court clerk is as follows:

Associate Circuit Court Judge:	\$109,366 per year, plus fringes
Court Clerk II:	\$ 27,564 per year, plus fringes

The total annual cost for this legislation would be \$1,539,134, plus fringes, and 41 FTE.

In addition, transferring approximately 10,603 cases (with a BAC of .15 or more and filings with a prior offender) to circuit courts would result in a loss to municipality general revenue of \$2,093,645 from associated fees, surcharges and fines.

Each misdemeanor case will increase court costs from \$22.50 to \$104.50. The State (or

ASSUMPTION (continued)

statewide entities) would gain approximately \$4.2 million; the non-dedicated, general revenue portion of this would be \$132,325.

Oversight assumes approximately 44% of the remaining \$4,067,675 in court costs go to various county funds and 56% go to various state funds. For fiscal note purposes only, **Oversight** will allocate \$1,789,777 to Local Political Subdivisions and \$2,277,898 to Various State Funds.

Officials from the **Department of Revenue (DOR)** provided the following assumptions regarding this proposal and their agency would need to do the following:

- Create a new 2 point conviction for a first time chemical refusal in violation of §577.020 and §577.021. In FY 2009, DOR received 13,592 Chemical Refusal Revocation Alcohol Influence Reports under the current law. If a conviction is received for each of these, DOR will receive an additional 1,133 convictions per month or the average of 54 per day. Because this is a 2 point violation, DOR will have an increase in point suspensions; however, DOR is unable to determine the volume of suspensions that will be generated. The increase in suspensions will also increase the reinstatement fees and SR-22 filings required at reinstatement. This volume is also unknown. This will increase phone calls; however the volume is unknown.
- Key all alcohol-related SIS convictions. DOR does not currently add SIS convictions to any driver record, except for commercial violations. The volume of SIS convictions received in 2009 was 6,056. This equates to 504 per month or the average of 24 per day. This will increase telephone calls because SIS convictions are not currently added to the driver record.
- Post all SIS convictions relating to a felony in the commission of a motor vehicle. There are currently no statistics available to determine how many of these types of violations DOR must key.
- This change will require programming and increase the number of individuals requiring an Ignition Interlock Device (IID) to be filed as either a reinstatement requirement or requirement to obtain an Limited Driving Privilege License (LDP). What is considered a prior alcohol-related offense has expanded and this will increase the number of IID required to be installed and reported to DOR.

ASSUMPTION (continued)

- Based on new LDP changes that increase the reasons prohibiting a driver from receiving an LDP, DOR will be denying more applications. This will require notification to the citizen. Currently, DOR denies 1,916 LDP applications. This will generate more phone calls and correspondence.

Other changes include the AIR to be revised to include the Class A misdemeanor; Form Changes in addition to AIR; Testing of MODL programs and new conviction codes; Website Changes; Procedure Changes; Training of Staff; Unknown postage and forms cost.

Based on the above assumptions DOR will require the following FTE:

.25 Revenue Processing Tech (10L) - to process additional convictions received. (78 convictions received per day)

.75 - Telephone Information Tech (10/L) - One operator can process 100 calls per day. Given the increase in convictions and SIS convictions being added to the record, DOR assumes .75 operator will be needed. If the call volume exceeds 100 calls per day, an additional FTE may be requested through appropriations.

The Driver's License Bureau will also have costs related to internal implementation of law:

2 - Management Analysis Specialist II
Monthly salary = $3,854 \times 2 = 7,708$
1 months of testing = $7,708 \times 1 = 7,708$

1 - Administrative Analyst
Monthly salary = 2,836
1 months of testing = 2,836

1 - Revenue Band Manager
Monthly salary = $4,236 \times 1 = 4,236$
1 month = 4,236

2 - Management Analysis Specialist I for forms and Internal Procedures development
40 hours at \$20.13 = $805.20 \times 2 = 1,610.40$

1 - Administrative Analyst III for web page updates (10 hours at \$21.79 = \$217.90)

ASSUMPTION (continued)

Oversight assumes the internal implementation costs can be absorbed with existing resources.

DOR - General Counsel - DOR anticipates benefits from regional hearings to include mileage savings, more efficient docketing of hearings and better use of existing staff, however; at this time the actual savings is unknown.

OA-ITSD (DOR) In response to a proposal similar to or identical to this one in a previous session, the department planned to absorb the administrative costs to implement the proposal. Due to budget constraints, reduction of staff and the limitations within the department's driver license systems, changes cannot be made without significant impact to the department's resources and budget. Therefore, the IT portion of the fiscal impact is estimated with a level of effort valued at \$127,200 based on 4,800 FTE hours.

Oversight assumes OA-ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. **Oversight** assumes OA-ITSD (DOR) could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA-ITSD (DOR) could request funding through the appropriation process.

DOR assumes an unknown amount of reinstatement fees will be collected to be distributed as follows: 75% highway fund, 15% cities, and 10% counties

Officials from the **City of Kansas City** assumed no fiscal impact to their city as a result of this proposed legislation.

Officials from the **City of Columbia** Municipal Court estimate the annual revenue loss of cases going directly to state court and based on 2009 statistics to be \$90,000 a year (150 cases @ \$600/case).

Officials from the **City of St Robert** anticipate of loss of \$20,642 in revenue from loss of court fines and costs each year and assume this revenue would be shifted to the State.

Officials from the **City of Centralia** assume this proposal does not appear to have a fiscal impact on their jurisdiction.

Officials from the **Boone County Sheriff's** Department stated this proposal would have no fiscal impact on their department.

ASSUMPTION (continued)

Officials from the **Jefferson City Police Department** assume this proposed legislation would impact all local jurisdictions as it removes fines/court fees, etc. associated with DWI arrests and court actions.

Officials from the **Columbia Police Department** assume this proposal has the potential of have a fiscal impact on their city government.

Officials from the **Springfield Police Department** assume limited fiscal impact due to increased data entry requirements.

Officials from the **City of Gladstone** estimate costs of \$15,000 annually in police overtime costs due to required travel to and appearances in Circuit Court (500 man hours @ \$30.00 per hour). Gladstone officials also estimate losses of \$70,000 annually in lost revenues from fines and court costs imposed by the Gladstone Municipal Court in DWI related cases.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE			
<u>Cost - Department of Revenue (D)R</u>			
Personal Services (1 FTE)	(\$21,784)	(\$26,926)	(\$27,733)
Fringe Benefits	(\$12,383)	(\$14,120)	(\$14,543)
Equipment and Expense	<u>(\$5,982)</u>	<u>(\$518)</u>	<u>(\$533)</u>
TOTAL COSTS DOR	(\$40,149)	(\$41,564)	(\$42,809)
 <u>Cost - Office of State Public Defender -</u>			
Contract Counsel	(\$343,750)	(\$424,875)	(\$437,621)
 <u>Cost - Department of Corrections -</u>			
Incarceration and/or Probation costs	(Expected to exceed \$100,000)	(Expected to exceed \$100,000)	(Expected to exceed \$100,000)
 <u>Cost - Office of State Courts</u>			
<u>Administrator (OSCA)</u>			
<u>Personal Services - Associate Circuit</u>			
Judges (5 FTE)	(\$469,362)	(\$580,132)	(\$597,536)
Personal Services - Court Clerk II (36 FTE)	(\$851,728)	(\$1,052,735)	(\$1,084,317)
Fringe Benefits	(\$884,619)	(\$1,099,884)	(\$1,119,894)
Equipment	<u>(\$33,569)</u>	<u>\$0</u>	<u>\$0</u>
TOTAL COSTS OSCA	<u>(\$2,239,278)</u>	<u>(\$2,732,751)</u>	<u>(\$2,801,747)</u>
 <u>Income - Office of State Courts</u>			
Administrator - Increase in court costs	<u>\$132,325</u>	<u>\$132,325</u>	<u>\$132,325</u>
 ESTIMATED NET EFFECT ON GENERAL REVENUE			
	<u>(Expected to exceed \$2,590,852)</u>	<u>(Expected to exceed \$3,166,865)</u>	<u>(Expected to exceed \$3,249,852)</u>
 ESTIMATED NET EFFECT ON GENERAL REVENUE FTE			
	42 FTE	42 FTE	42 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
HIGHWAY FUND			
<u>Cost</u> - Department of Public Safety - Missouri State Highway Patrol			
Consultant Fees	(\$517,080)	\$0	\$0
WEB Infrastructure Upgrade	(\$30,000)	\$0	\$0
Contractual Support (Maintenance)	\$0	(\$33,874)	(\$33,874)
Equipment - Server	(\$10,000)	\$0	\$0
TOTAL COSTS MHP	<u>(\$577,080)</u>	<u>(\$33,874)</u>	<u>(\$33,874)</u>
ESTIMATED NET EFFECT ON HIGHWAY FUND	<u>(\$577,080)</u>	<u>(\$33,874)</u>	<u>(\$33,874)</u>
VARIOUS STATE FUNDS			
<u>Revenue Increase</u> - Increased circuit court fees, surcharges, and fines			
	<u>\$2,277,898</u>	<u>\$2,277,898</u>	<u>\$2,277,898</u>
ESTIMATED NET EFFECT ON VARIOUS STATE FUNDS	<u>\$2,277,898</u>	<u>\$2,277,898</u>	<u>\$2,277,898</u>
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2011 (10 Mo.)	FY 2012	FY 2013
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue Loss</u> - Municipal court fees, surcharges, and fines.			
	(\$2,093,645)	(\$2,093,645)	(\$2,093,645)
<u>Revenue Increase</u> - Circuit court fees, surcharges, and fines			
	<u>\$1,789,777</u>	<u>\$1,789,777</u>	<u>\$1,789,777</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$303,868</u>	<u>\$303,868</u>	<u>\$303,868</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This proposed legislation changes the laws regarding driving while intoxicated. In its main provisions, the proposal:

- (1) Adds to the list of moving violations in which points are assessed against a person's driver's license the refusal to submit to a chemical blood alcohol content (BAC) test for which two points will be assessed. Refusal to submit to a test will also be a class A misdemeanor;
- (2) Prohibits any person who has had a prior alcohol-related enforcement contact or a driver's license denial from receiving a limited driving privilege driving record;
- (3) Prohibits any person who has had his or her driver's license suspended in the preceding five years for a driving while intoxicated offense and had a BAC of .15 or more from receiving a limited driving privilege license until the person's license has been suspended or revoked for 90 days followed by 275 days of restricted driving privilege;
- (4) Prohibits any person who has been convicted of, found guilty of, or pled guilty to refusal to submit to a chemical BAC test from receiving a limited driving privilege license;
- (5) Specifies that a person with a BAC of .15 or more that has no prior alcohol-related enforcement contacts during the preceding five years will have his or her driver's license revoked for 90 days followed by 275 days of restricted driving privilege;
- (6) Specifies that "alcohol-related enforcement contacts" will include the refusal to submit to a chemical test;
- (7) Requires the course of instruction that all municipal judges must complete to include a review of intoxication-related offenses, jurisdictional issues related to those offenses, reporting requirements for courts, and required assessment for offenders under the Substance Abuse Traffic Offender Program (SATOP);
- (8) Specifies that offenses involving operating a motor vehicle while intoxicated where the defendant has had a previous intoxication-related traffic offense, had any alcohol-related contacts, had a BAC of .15, or any offense involving the refusal to submit to a chemical test will not be cognizable in a municipal court;

FISCAL DESCRIPTION (continued)

(9) Requires law enforcement agencies, prosecutors, circuit courts, and municipal courts to enter all information for intoxication-related offenses into the Driving While Intoxicated Tracking System (DWITS) which is maintained by the State Highway Patrol. The patrol must report to the Department of Public Safety and the Governor any agency who fails to submit the required information. The Governor may withhold state funds to an agency that fails to comply with this provision;

(10) Increases the penalty for a person guilty of a driving while intoxicated offense from a class B misdemeanor to a class A misdemeanor if the person had a BAC of .15 or more;

(11) Specifies that any person who pleads guilty to driving while intoxicated, an excessive BAC offense, or refusal to submit to a chemical test and is granted a suspended imposition of sentence cannot later withdraw that plea;

(12) Specifies that a person will be guilty of a class A misdemeanor for refusing to submit to a chemical test and the law enforcement officer has probable cause to believe that the driver is intoxicated and informs the driver of the penalty for refusing. Any subsequent violation will be a class D felony;

(13) Allows courts to search the DWITS or the certified driving record for prior alcohol-related driving offenses and specifies that any person who has been convicted of, pled guilty to, or has been found guilty of an intoxication-related offense will have the record of the offense assessed against the person's driving record by the Director of the Department of Revenue;

(14) Changes the legal standard for a warrantless arrest as a result of a driving while intoxicated or an excessive BAC offense from reasonable grounds to probable cause and removes the requirement that the arrest take place one and one-half hours after the violation;

(15) Requires any person who has had a driver's license suspended or revoked in violation of §577.041, RSMo, and whose driving record shows a prior alcohol-related enforcement contact or who has had a license to operate a motor vehicle suspended or revoked for driving while intoxicated when classified as a class A misdemeanor or for refusing to submit to a chemical test to have any motor vehicle operated by the person equipped with an ignition interlock device; and

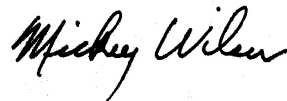
(16) Removes the provisions which allow for the expungement of a person's first alcohol-related driving offense after 10 years of no further alcohol-related offenses.

FISCAL DESCRIPTION (continued)

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 of Administrator
Department of Revenue
Department of Corrections
Department of Health and Senior Services
Department of Public Safety
 Office of the Director
 Missouri State Highway Patrol
Department of Mental Health
Office of the Governor
Office of Prosecution Services
Office of State Public Defender
Office of Secretary of State
 Administrative Rules Division
Office of Administration
 Information Technology Services Division
Cities
 Kansas City
 Columbia
 St Robert
 Centralia
 Gladstone
Local Law Enforcement
 Jefferson City Police Department
 Boone County Sheriff's Department
 Columbia Police Department
 Springfield Police Department



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Director

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