

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5426-01
Bill No.: SB 771
Subject: Crimes and Punishment
Type: Original
Date: March 21, 2014

Bill Summary: This proposal creates the offense of possession or transfer of an automated sales suppression device.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
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 2015	FY 2016	FY 2017
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Missouri Highway Patrol** assume the proposal would not fiscally impact their agency.

Officials from the **Office of Prosecution Services (OPS)** assume the proposal would not have a fiscal impact on their agency. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs which are difficult to determine.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crime of possession or transfer of an automated sales suppression device - a new class D or C felony.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Office of the State Courts Administrator (CTS)** state the proposal is not anticipated to cause a fiscal impact in excess of \$100,000.

Oversight assumes CTS could implement the proposal with existing resources.

Officials from the **Department of Corrections (DOC)** state the penalty provision component of this bill resulting in potential fiscal impact for DOC, is for up to a class C felony. 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 legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY13 average of \$18.014 per offender, per day, or an annual cost of \$6,575 per inmate) or through supervision provided by the Board of Probation and Parole (FY13 average of \$5.07 per offender, per day or an annual cost of \$1,851 per offender).

ASSUMPTION (continued)

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Sixteen (16) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
GENERAL REVENUE			
<u>Costs</u> - Department of Corrections - incarceration and/or supervision expense for persons convicted of the new crime	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)

<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
	<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 proposal creates the offense of possession or transfer of an automated sales suppression device.

The offense is a Class D felony if the person knowingly possesses, purchases, or owns an automated sales suppression device or phantom-ware.

The offense is a Class C felony if the person knowingly manufactures, sells, installs, or transfers, or possesses, purchases, or owns with the intent to sell, install, or transfer, an automated sales suppression device or phantom-ware.

RAS:LR:OD

FISCAL DESCRIPTION (continued)

An automated sales suppression device is defined under the act as a software program that is designed to falsify the records of an electronic cash register or other point-of-sale system. Phantom-ware is defined under the act as a hidden programming option in an electronic cash register that can create a virtual second cash register or eliminate or manipulate transaction records.

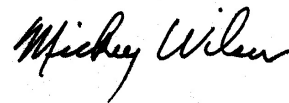
Any person found guilty of the offense must forfeit all profits associated with the use.

Automated sales suppression devices and phantom-ware are declared contraband under this act.

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

Department of Public Safety
Missouri Highway Patrol
Office of Prosecution Services
Office of the State Public Defender
Office of the State Courts Administrator
Department of Corrections



Mickey Wilson, CPA
Director
March 21, 2014

Ross Strobe
Assistant Director
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