

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3554-01  
Bill No.: SB 766  
Subject: Crimes and Punishment; Drugs and Controlled Substances; Drunk Driving/Boating  
Type: Original  
Date: January 22, 2020

Bill Summary: This proposal modifies the offense of driving with excessive blood alcohol content and also changes other sections of law to reflect these changes.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
General Revenue	(\$44,500 to Less than \$144,500)	(Less than \$100,000)	(Less than \$100,000)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$44,500 to Less than \$144,500)</b>	<b>(Less than \$100,000)</b>	<b>(Less than \$100,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Highway Fund	Less than \$100,000	Less than \$100,000	Less than \$100,000
Various State Funds	Less than \$100,000	Less than \$100,000	Less than \$100,000
<b>Total Estimated Net Effect on Other State Funds</b>	<b>Less than \$100,000</b>	<b>Less than \$100,000</b>	<b>Less than \$100,000</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 11 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Local Government</b>	<b>Less than \$100,000</b>	<b>Less than \$100,000</b>	<b>Less than \$100,000</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Department of Revenue (DOR)** assume the following regarding this proposal:

#### Administrative Impact

To implement the proposed legislation, the Department will be required to:

- Work with the State Judicial Records Committee (SJRC) to create new charge codes;
- Work with OA-ITSD to map the new charge codes into the existing MODL codes;
- Change the MODL description for the offense of "Excessive Blood Alcohol Content" to "Prohibited Blood Alcohol or Drug Content";
- Update procedures, forms, and the Department website; and
- Train staff.

#### FY 2021- Driver License Bureau

Management Analysis Spec II	240 hrs. @ \$20.57 per hr.	= \$ 4,937
Administrative Analyst I	240 hrs. @ \$14.70 per hr.	= \$ 3,528
Revenue Manager	160 hrs. @ \$20.59 per hr.	= \$ 3,294
Total		= \$11,759

#### FY 2021- Personnel Services Bureau

Administrative Analyst III	336 hrs. @ \$19.80 per hr.	= \$ 6,653
Management Analysis Spec I	336 hrs. @ \$18.42 per hr.	= \$ 6,189
Total		= \$12,842

**Total costs** = **\$24,601**

By adding drug arrests to the Administrative Zero Tolerance process, the Department will see an increase in the number of arrest reports received per year. A Revenue Processing Technician I (RPT) can process 48 documents per day including order of suspension/revocation(s), returned mail, and other related processes. The Department assumes it can absorb the additional document processing with existing staff. If the number of documents received is higher than anticipated, additional FTE will be requested through the appropriation process.

**Oversight** assumes DOR will use existing staff and will not hire additional FTE to conduct these activities; therefore, Oversight will not reflect the administrative costs DOR has indicated on the fiscal note.

ASSUMPTION (continued)

**DOR** notes:

Mail out to Law Enforcement Agencies include the following:

- Develop a new suspension/revocation notice served by the arresting law enforcement officer based on the new statute.
  - Print 160,000 new forms
  - Central stores stock - 28,800
  - Mail 131,200 copies of the updated forms to 656 law enforcement agencies (200 forms each)
- Develop new Law Enforcement Report form.
  - Print 160,000 new forms
  - Central stores stock - 28,800
  - Mail 131,200 copies of the updated forms to 656 law enforcement agencies (200 forms each)

FY 2021 - Cost for forms/mailing

Cost for forms - 160,000 - 2 part carbonless copy (approx. \$0.075 each)	= \$12,000
Cost for forms - 160,000 - Law Enforcement form (approx. \$0.075 each)	= \$12,000
Cost for envelopes - 656 @ \$0.12 each	= \$ 79
Cost for postage - 656 @ \$5.48 each	= \$ 3,595
<b>Total cost for new forms/mailings</b>	<b>= \$27,674</b>

OA-ITSD services will be required at a cost of **\$16,826** in FY 2021 (177.12 hours x \$95 per hour).

**Oversight** does not have any information to the contrary in regards to DOR's assumptions; therefore, Oversight will reflect DOR's costs for mailing and OA-ITSD services on the fiscal note.

**DOR** notes:

Revenue Impact

This legislation could result in an unknown increase in driver license suspensions, and related reinstatement fees. Any reinstatement fees collected pursuant to this proposed legislation will be distributed 75% Highway Fund, 15% Cities, and 10% Counties.

ASSUMPTION (continued)

**Oversight** notes there were 56 infractions, 18,573 misdemeanor convictions, and 3,522 felony convictions for violations of Chapter 577 (alcohol related while operating a motor vehicle/boat) in FY 2019. Oversight notes the reinstatement fee for administrative alcohol or zero tolerance license suspensions is \$45. Oversight assumes these numbers could increase due to the addition of other drugs being added to these provisions; therefore, Oversight will reflect revenue from reinstatement fees of "Less than \$100,000" to the Highway Fund, Cities and Counties on the fiscal note.

**Oversight** notes there are varying court costs and fines related to convictions for violations of Chapter 577. A portion of the fine goes to fine revenue, while the remaining amount goes to various state and local funds for court costs. However, all fines may not have been paid (for example, the court could have dismissed the ticket or set the fine at a different amount).

Additional fine revenue received by local school districts may count as a deduction in the following year in determining their state aid apportionment, if the district is not a 'hold harmless' district. For simplicity, Oversight will only reflect the increase in fine revenue as a positive impact to local political subdivisions.

Below are examples of some of the state and local funds to which court costs are distributed.

<b>Fee/Fund Name</b>	<b>Fee Amount</b>
Basic Civil Legal Services Fund	\$8.00
Clerk Fee	\$15.00 (\$12 State/\$3 County)
County Fee	\$25.00
State Court Automation Fund	\$7.00
Crime Victims' Compensation Fund	\$7.50
DNA Profiling Analysis Fund	\$15.00
Peace Officer Standards and Training (POST) Fund	\$1.00
Sheriff's Retirement Fund	\$3.00
Motorcycle Safety Trust Fund	\$1.00

<b>Fee/Fund Name (continued)</b>	<b>Fee Amount</b>
Brain Injury Fund	\$2.00
Independent Living Center Fund	\$1.00
Sheriff's Fee	\$10.00 (County)
Prosecuting Attorney and Circuit Attorney Training Fund	\$4.00
Prosecuting Attorney Training Fund	\$1.00 (\$0.50 State/\$0.50 County)
Spinal Cord Injury Fund	\$2.00

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** state they 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 driving with any amount of controlled substance present in their person. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

In FY 2019, SPD's Trail Division provided representation in 1,874 Driving While Intoxicated (DWI) cases (674 felony and 1,136 misdemeanor). The number of additional cases is very difficult to project. If the new provision nets just 5% additional cases, this equates to 100 new cases (33 felony @ 25 hours and 56 new misdemeanor @ 11.70 hours) which equates to 0.75 new attorney FTE.

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** notes over the last three fiscal years, the SPD has lapsed a total of \$153 of General Revenue appropriations (\$2 out of \$28.0 million in FY 2017; \$150 out of \$42.5 million in FY 2018; and \$1 out to \$46.0 million in FY 2019). Therefore, Oversight assumes the SPD is at maximum capacity and the increase in workload resulting from this bill cannot be absorbed within SPD's current resources.

ASSUMPTION (continued)

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

Oversight assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

Officials from the **Department of Corrections** assume this proposal does not provide any changes to penalties or offenses; therefore, there is no fiscal impact.

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

**Oversight** notes that the agencies mentioned above have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

Officials from the **Springfield Police Department, Boone County Sheriff's Department, St. Louis County Department of Justice Services and St. Louis County Police Department** each assume the proposal will have no fiscal impact on their respective organizations.

**Oversight** notes that the agencies mentioned above have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other law enforcement agencies were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
<b>GENERAL REVENUE FUND</b>			
<u>Cost</u> - DOR - forms/mailing to law enforcement agencies p. 4	(\$27,674)	\$0	\$0
<u>Cost</u> - DOR - OA-ITSD services p. 4	(\$16,826)	\$0	\$0
<u>Cost</u> - potential additional attorney for SPD due to enhanced penalties for releasing feral swine on public land p. 7	(Less than <u>\$100,000</u> )	(Less than <u>\$100,000</u> )	(Less than <u>\$100,000</u> )
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b>(\$44,500 to Less than <u>\$144,500</u>)</b>	<b>(Less than <u>\$100,000</u>)</b>	<b>(Less than <u>\$100,000</u>)</b>
<b>HIGHWAY FUND</b>			
<u>Revenue</u> - (75%) - increased number of reinstatement fees p. 5	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>
<b>ESTIMATED NET EFFECT ON THE HIGHWAY FUND</b>	<b>Less than <u>\$100,000</u></b>	<b>Less than <u>\$100,000</u></b>	<b>Less than <u>\$100,000</u></b>
<b>VARIOUS STATE FUNDS</b>			
<u>Revenue</u> - Court costs for violations of Chapter 577 p. 5	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>
<b>ESTIMATED NET EFFECT ON VARIOUS STATE FUNDS</b>	<b>Less than <u>\$100,000</u></b>	<b>Less than <u>\$100,000</u></b>	<b>Less than <u>\$100,000</u></b>



<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Revenue</u> - Cities (15%) - increased number of reinstatement fees p. 5	Less than \$100,000	Less than \$100,000	Less than \$100,000
<u>Revenue</u> - Counties (10%) - increased number of reinstatement fees p. 5	Less than \$100,000	Less than \$100,000	Less than \$100,000
<u>Revenue</u> - fine revenue and court costs to various local political subdivisions for violations of Chapter 577 p. 5	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>	Less than <u>\$100,000</u>
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b>Less than <u>\$100,000</u></b>	<b>Less than <u>\$100,000</u></b>	<b>Less than <u>\$100,000</u></b>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This act renames the offense of driving with excessive blood alcohol content to the offense of driving with prohibited blood alcohol or drug content. In addition to current provisions about driving with certain levels of blood alcohol content, a person is guilty of this offense who operates a vehicle while any amount of controlled substance is present in the person, as measured in the person's bodily fluids.

The presence of a controlled substance in a person's bodily fluids after the person was operating a motor vehicle is presumed to show the presence of such substance at the time the person was operating the vehicle.

When a person is charged with this offense on the allegation that a controlled substance was present in the person while operating a vehicle, that person may assert the affirmative defense that the controlled substance was prescribed and taken in accordance with medical directions.

### FISCAL DESCRIPTION (continued)

A law enforcement officer may, prior to arrest, administer a chemical test to any person suspected of operating a vehicle with any amount of a controlled substance present in the person.

### DEPARTMENT OF REVENUE - LICENSE SUSPENSION OR REVOCATION

Under current law, when a law enforcement officer arrests a person for driving while intoxicated or with certain levels of alcohol in the system the officer must forward to the Department of Revenue certain information pertaining to the arrest. This act includes that when a person is arrested and his or her blood, urine, or saliva show the presence of a controlled substance then information pertaining to the arrest shall also be sent to the Department of Revenue. Currently, the Department of Revenue may suspend or revoke the license of a person arrested for driving while intoxicated or with certain levels of alcohol in his or her system. This act states that the Department may also suspend or revoke the license of a person who is arrested for driving with any amount of a controlled substance in the person. Additionally under current law, a person who was under 21 at the time that his or her license was revoked or suspended will have his or her record expunged by the Department unless the person is convicted of driving with certain levels of alcohol in his or her system. This act provides that a person convicted of driving with any amount of a controlled substance, under the new offense of driving with prohibited blood alcohol or drug content, also is ineligible for automatic expungement.

The act modifies the definition for "intoxication-related traffic offense" to include driving with prohibited drug content as it related to those who have commercial driver's licenses.

### ENDANGERMENT OF A HIGHWAY WORKER

The offense of endangerment of a highway worker occurs when a person commits certain offenses within a work zone. This act adds driving with any amount of a controlled substance in the person's system, under the new offense of driving with prohibited blood alcohol or drug content, to the list of offenses.

### DWI COURTS

A circuit court may currently establish a docket or court specifically for those how have plead guilty to driving while intoxicated or with certain levels of alcohol in the system. This provision is modified to include the new offense of driving with prohibited blood alcohol or drug content.

FISCAL DESCRIPTION (continued)

UNIFORM FRESH PURSUIT LAW

Currently, a law enforcement officer of another state who enters Missouri in fresh pursuit of a person believed to be driving while intoxicated or with certain levels of alcohol in his or her system may arrest such person in the state.

This act modifies the provision to include the new offense of driving with prohibited blood alcohol or drug content.

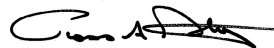
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue  
Department of Transportation  
Department of Public Safety - Missouri Highway Patrol  
Office of the State Public Defender  
Office of Prosecution Services  
Department of Corrections  
Office of the State Courts Administrator  
Department of Health and Senior Services  
Springfield Police Department  
Boone County Sheriff's Department  
St. Louis County Department of Justice Services  
St. Louis County Police Department



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