

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1205S.02C
 Bill No.: SCS for SB Nos. 56 & 61
 Subject: Crimes and Punishment; Civil Penalties; Motor Vehicles; Motor Carriers; Political Subdivisions; Transportation; Telecommunications
 Type: Original
 Date: February 24, 2023

Bill Summary: This proposal enacts provisions relating to the operation of motor vehicles.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue	(\$57,401)	(\$58,134)	(\$79,062)
Total Estimated Net Effect on General Revenue	(\$57,401)	(\$58,134)	(\$79,062)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Various State Funds	\$0	Less than \$125,000	Less than \$250,000
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	Less than \$125,000	Less than \$250,000

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	\$0	Less than \$125,000	Less than \$250,000

FISCAL ANALYSIS

ASSUMPTION

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

§304.822.3

Current law already provides for convictions for commercial vehicle operators who operate mobile phones or text while driving. In fiscal year 2022, the Department added 59 convictions on record. The Department assumes the new language would not result in a significant increase in these convictions.

The Department does not have available data to determine the potential increase, however officials assume it to be minimal enough to not require additional FTE. If the increase is more significant than anticipated, or additional laws are passed that impact the staff who process expungements, additional FTE will be requested through the appropriations process.

Administrative Impact

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

- Work with Missouri State Highway Patrol to create new charge codes for the new convictions.
- Develop new conviction codes in the Missouri Driver License (MODL) system.
- Work with OA-ITSD to add the new felony conviction code to the commercial disqualification routine.
- Work with OA-ITSD to create an evaluation routine for the increased point assessment for subsequent convictions in a 24 month period, and add the new conviction codes into the current point evaluation routine.
- Update commercial disqualification routines as required.
- Work with OA-ITSD to apply edits to the new convictions codes for violation date and non-allowance of a driver improvement program.
- Complete system programming and user acceptance testing of MODL and the Missouri Electronic Driver License (MEDL) system.
- Update interactive applications for automated responses to customers through telephone system (current vendor Genesys) or online (DORA).
- Update forms, the Department website, and the Missouri driver guide.
- Work with the Public Service Bureau to develop a communication plan.
- Train internal staff and affected external agencies.

FY 2024 – Driver License Bureau

Associate Research/Data Analyst 520 hrs. x \$20.54 per hr. = \$10,681

Research/Data Analyst 560 hrs. x \$25.63 per hr. = \$14,353

Administrative Manager 280 hrs. x \$27.82 per hr. = \$7,790

Total = \$32,824

FY 2024 – Public Service Bureau

Associate Research/Data Analyst 80 hrs. x \$20.54 per hr. = \$1,643

Total = \$34,467

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.

DOR notes OA-ITSD services will be required at a cost of **\$33,653** in FY 2024 (354.24 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 OA-ITSD costs on the fiscal note.

DOR notes the fiscal impact estimated above is based on changes in the current system environment. The implementation of this legislation will be coordinated with the integration of the Department's Motor Vehicle and Driver Licensing software system approved and passed by the General Assembly in 2020 (Senate Bill 176). To avoid duplicative technology development and associated costs to the state, it is recommended a delayed effective date be added to this bill to correlate with the installation of the new system.

Officials from the **Department of Corrections (DOC)** assume this proposal enacts provisions relating to the operation of motor vehicles.

Section 304.820 is repealed with section 304.822 replacing it, adding a class D felony offense.

As these are new crimes, there is little direct data on which to base an estimate, and as such, the department estimates an impact comparable to the creation of a new class D felony.

For each new nonviolent class D felony, the department estimates three people will be sentenced to prison and five to probation. The average sentence for a nonviolent class D felony offense is 5 years, of which 2.8 years will be served in prison with 1.7 years to first release. The remaining 2.2 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be 8 additional offenders in prison and 22 additional offenders on field supervision by FY 2028.

	# to prison	Cost per year	Total Costs for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	3	(\$9,499)	(\$23,748)	5	absorbed	\$0	(\$23,748)
Year 2	6	(\$9,499)	(\$58,134)	10	absorbed	\$0	(\$58,134)
Year 3	8	(\$9,499)	(\$79,062)	16	absorbed	\$0	(\$79,062)
Year 4	8	(\$9,499)	(\$80,643)	19	absorbed	\$0	(\$80,643)
Year 5	8	(\$9,499)	(\$82,256)	22	absorbed	\$0	(\$82,256)
Year 6	8	(\$9,499)	(\$83,901)	22	absorbed	\$0	(\$83,901)
Year 7	8	(\$9,499)	(\$85,579)	22	absorbed	\$0	(\$85,579)
Year 8	8	(\$9,499)	(\$87,291)	22	absorbed	\$0	(\$87,291)
Year 9	8	(\$9,499)	(\$89,037)	22	absorbed	\$0	(\$89,037)
Year 10	8	(\$9,499)	(\$90,817)	22	absorbed	\$0	(\$90,817)

Oversight does not have information to the contrary and therefore, Oversight will reflect the estimates as provided by DOC.

Officials from the **Office of the State Public Defender (SPD)** assume the creation of a new offense under Section 304.822 would have an unknown fiscal impact on SPD. It is unknown how many additional cases would be eligible for SPD representation.

Oversight notes in FY 2022, the SPD was appropriated moneys for 53 additional FTE. Oversight assumes this proposal will create a minimal number of new cases and that the SPD can absorb the additional caseload required by this proposal with current staff and resources. Therefore, Oversight will reflect no fiscal impact to the SPD for fiscal note purposes. However, if multiple bills pass which require additional staffing and duties, the SPD may request funding through the appropriation process.

Officials from the **Department of Commerce and Insurance, Department of Elementary and Secondary Education, Missouri Highway Patrol, Missouri Department of Transportation and Missouri Office of Prosecution Services** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

In response to a previous version, officials from the **Office of the State Courts Administrator** assumed the proposal would have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for OSCA.

Oversight notes, according to data provided by the Office of the State Courts Administrator, there were 46 infractions (guilty pleas) in FY 2022 for the offense of 21 years of age and under texting while driving and 39 infractions (guilty pleas) for operating a CMV while texting, currently both with an approximate fine of \$83 per ticket.

Of the \$83 fine, \$20.50 goes to local schools as fine revenue and the remaining \$62.50 goes to various state and local funds for court costs.

This proposal establishes fines for convictions starting at \$50 (no prior conviction within the preceding 24 months) up to \$250 (conviction for violation that occurred in a work zone or school zone). This proposal also establishes misdemeanor and felony classes for certain violations.

Oversight is unable to determine how many violations, and which class of violation, will occur as a result of this proposal; therefore, Oversight will reflect an “Unknown, less than \$125,000” fiscal impact to the state and local political subdivisions.

Oversight will not show the fiscal impact until FY 2025 (6 months) as the proposal mandates prior to January 1, 2025, law enforcement shall only issue a warning to noncommercial motor vehicle drivers for any of these violations.

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.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025 (6 Mo.)	FY 2026
GENERAL REVENUE			
<u>Cost – DOR – OA-ITSD services p. 4</u>	(\$33,653)	\$0	\$0
<u>Cost – DOC – increase in number of offenders due to creation of a new felony for distracted driving which causes the death of another person p. 4-5</u>	(\$23,748)	(\$58,134)	(\$79,062)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	(\$57,401)	(\$58,134)	(\$79,062)

<u>FISCAL IMPACT – State Government</u> (continued)	FY 2024 (10 Mo.)	FY 2025 (6 Mo.)	FY 2026
VARIOUS STATE FUNDS			
<u>Revenue</u> - Court costs from using an electronic wireless communication device while driving p. 5-6	\$0	Less than \$125,000	Less than \$250,000
ESTIMATED NET EFFECT ON VARIOUS STATE FUNDS	\$0	Less than \$125,000	Less than \$250,000

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025 (6 Mo.)	FY 2026
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue</u> - fine revenue and court costs from offense of using an electronic wireless communication device while driving p. 5	\$0	Less than \$125,000	Less than \$250,000
ESTIMATED NET EFFECT TO THE LOCAL POLITICAL SUBDIVISIONS	\$0	Less than \$125,000	Less than \$250,000

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This act repeals the current prohibitions against operation of motor vehicles while using hand-held electronic wireless communications devices, as defined by law, and enacts different prohibitions in lieu thereof.

The act prohibits a number of uses of electronic communication devices while operating motor vehicles, as detailed in the act, as well as provides exceptions.

The act specifies penalties for violations of the act, including enhanced penalties for repeat offenders, violations occurring in a work zone when workers are present, violations occurring in a school zone, and violations that are the proximate cause of property damage, personal injury, or death.

Law enforcement officers who stop a noncommercial motor vehicle for a violation of the act shall inform the operator of the operator's right to decline a search of their device, and shall not access the device without a warrant or confiscate the device while awaiting issuance of a warrant.

The provisions of the act shall be subject to racial bias reporting as required by law.

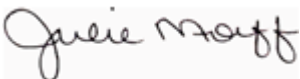
This act preempts local regulation of the use of electronic communication devices by the operators of vehicles.

Prior to January 1, 2025, a law enforcement officer who stops a noncommercial motor vehicle for a violation of the act shall not issue a citation for the violation, and shall only issue a warning.

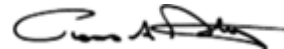
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue
Missouri Department of Transportation
Missouri Highway Patrol
Department of Commerce and Insurance
Department of Elementary and Secondary Education
Department of Corrections
Missouri Office of Prosecution Services
Office of the State Courts Administrator
Office of the State Public Defender



Julie Morff
Director
February 24, 2023



Ross Strobe
Assistant Director
February 24, 2023