

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 4272-01
BILL NO.: SB 934
SUBJECT: Motor Vehicle; Crimes and Punishments; Alcohol
TYPE: Original
DATE: February 1, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Highway Fund	(\$49,934)	\$27,289	\$25,336
General Revenue	(Unknown, to exceed 100,000)	(Unknown, to exceed \$100,000)	(Unknown, to exceed \$100,000)
Total Estimated Net Effect on <u>All</u> State Funds	(Unknown, to exceed \$149,934)	(Unknown, to exceed \$72,711)	(Unknown, to exceed \$74,664)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local government	\$15,908 to (Unknown)	\$35,652 to (Unknown)	\$35,652 to (Unknown)

Numbers within parentheses: () indicate costs or losses

This fiscal note contains 8 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Department of Public Safety - Missouri State Highway Patrol** and **Office of Prosecution Services** assume this proposal would have no fiscal impact to their agencies.

In response to previous versions of this proposal, officials of the **Office of the Attorney General** assumed this proposal would have no fiscal impact to their agency.

Officials of the **State Public Defender (SPD)** assume that existing staff could provide representation for those 50 - 75 cases arising where indigent persons were charged with "driving while intoxicated at .08%" or where the indigent persons were accused of "aggravated driving with an excessive blood alcohol content (BAC) of .15%." However, passage of more than one similar bill would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing the indigent accused. Appropriations are typically requested through the increased trial division caseload decision item in the SPD's Legislative Budget Request.

In response to a similar proposal, officials of the **Department of Revenue's (DOR) Drivers License Bureau** assume this proposal would result in an increase in the number of administrative duties associated with DWI arrest caseloads and convictions. This increase in caseload documentation would require four (4) hours of Clerk Typist II overtime per day at \$14.03 per hour, for a total cost of \$14,591 per year. In addition, the license bureau would incur additional postage costs of \$1,600 in FY 2001 and \$1,950 in FY 2002 and 2003. In addition, the proposal requires the court to issue an ignition interlock to any person who is found guilty of, or pleads guilty to, a second or subsequent intoxication related traffic offense. The person shall not operate any motor vehicle unless that vehicle is equipped with a functioning, certified ignition interlock device. The DOR currently tracks those drivers that have been issued ignition interlock devices and therefore there would be no costs associated with this portion of the proposal. DOR assumes this proposal will result in a minimal increase in the volume of court orders received.

In response to a similar proposal, officials from the **Department of Revenue's (DOR) General Counsel's Office** assume the provisions of this proposal would result in additional administrative hearings, trial-de-novo's and Court of Appeal hearings as the volume of suspended and revoked drivers will increase. The Office of the General Counsel would require two (2) Assistant Counsel FTE and one (1) Clerk Typist II FTE to handle DOR legal issues and challenges associated with this proposal. **Oversight** assumes that the number of additional hearings would be minimal and could be handled with one General Counsel and one Clerk Typist II. The costs to DOR have been adjusted accordingly.

ASSUMPTION (continued)

Missouri law mandates that a \$45 reinstatement fee be paid prior to the driving privilege reinstatement following an alcohol related suspension or revocation. For purposes of this fiscal note, it is assumed the reinstatement fee would not be received until after the suspension and the one year revocation periods have ended. It is projected there will be a total of 1,414 reinstatement fees received, at \$45 each, in FY 2001, for a projected revenue amount of \$63,630. The projected reinstatement fees to be received in FY 2002 and 2003 are 3,169, at \$45 each, for a total revenue amount of \$142,605 annually.

Additionally, officials of the DOR assume this proposal would create a new crime of aggravated driving with excessive BAC and mandates that twelve points be assessed for this new conviction type. DOR could administratively suspend/revoke an offender's driving privilege for a .15% BAC alcohol related enforcement contact. An offender would not be eligible for a limited driving privilege until the first thirty days of a suspension or revocation had been served.

DOR officials stated that Missouri law requires their department to make all Alcohol Influence Report (AIR) forms available to law enforcement agencies. Therefore, the provisions of this proposal would require modification to the AIR to accommodate the change in the BAC level. A supply of revised forms must be distributed to each law enforcement entity. Therefore, the provisions of this proposal would result in a forms and postage cost in the amount of \$3,565 in FY2000. The DOR will also incur state data center costs in the amount of \$4,464 to implement the provisions of this proposal.

Officials of the **State Courts Administrator (CTS)** would anticipate an increase in the number of DWI and BAC cases filed as a result of this proposal. In addition the proposed legislation would further restrict issuance of a limited driving privilege, expand the number of days of community service that must be served before probation or parole is granted in DWI cases, increase the amount of jail time if community service is not performed, and expand the requirements relating to ignition interlock devices. Depending on the degree of enforcement, there may be an increase in the number of cases filed. However, there is no way to quantify the increase at this time. Because of the increased penalties, some cases may become protracted. There may some impact on the local jail population, and an increase in the number of driving while suspended or revoked cases. CTS officials would not expect a significant impact on the budget of the judiciary.

In response to a similar proposal, officials of the **Missouri Department of Transportation (MoDOT)** stated that this proposal would not fiscally impact their agency. However, according to the National Highway Traffic Safety Administration, a state must pass a .08 BAC law in order to be eligible for additional federal funding that could be used for highway safety or highway

ASSUMPTION (continued)

construction programs. This .08 BAC law must replace either the .10 BAC laws on the books or be the threshold for a determination of a DWI. The federal funding available depends on the number of eligible states. The total amount authorized for such grants is \$90 million in FY 2001, \$100 million in FY 2002, and \$110 million in FY 2003.

In response to a similar proposal, officials of the **Department of Corrections (DOC)** assume the penalty provision portions of the proposal would have a fiscal impact on DOC relating to probation, parole and/or incarceration.

New commitments which could result from the creation of the offense(s) outlined in this proposal could not be accurately determined. In addition, changes in penalty provisions for current crimes could result in additional costs due to new commitments and/or longer sentences. The utilization of these laws for both new offenses and enhanced penalties for current offenses depend upon actions of prosecutors and the courts.

If additional persons were sentenced to the custody of the DOC due to the provisions of this proposal, the DOC would incur a corresponding increase in operational costs either through incarceration (average of \$35.00 per inmate, per day, at a minimum) or through supervision provided by the Board of Probation and Parole (average of \$3.50 per offender, per day, at a minimum).

At this time, the DOC is unable to determine the number of people that would be convicted under the provisions of this proposal to estimate the potential need for additional capital improvements. Estimated construction cost for one new inmate bed is \$48,300. Utilizing this per diem bed cost provides for a conservative estimate by the DOC, as entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

Based on a MHP *Study of the Processing of DWI Arrests in Missouri*, it is estimated that nearly 60% of individuals arrested for DWI would test in excess of .15%. MHP officials stated that there were 38,117 DWI arrests in 1997.

If only three additional beds had to be constructed as a result of this proposal, the fiscal impact would be well over \$100,000. **Oversight** assumes this proposal could result in unknown costs in excess of \$100,000.

ASSUMPTION (continued)

Oversight assumes this proposal could result in increased jail time if community service is not

performed. However, Oversight assumes most violators would opt for community service versus the service of additional jail time and therefore has ranged the costs from \$0 to (unknown).

<u>FISCAL IMPACT - State Government</u>	FY 2001	FY 2002	FY 2003
	(10 Mo.)		
GENERAL REVENUE FUND			
<u>Cost - Department of Corrections</u>			
Increased incarcerations and increased probation and parole	(Unknown, to exceed \$100,000)	(Unknown, to exceed \$100,000)	(Unknown, to exceed \$100,000)
HIGHWAY FUND			
<u>Income - Department of Revenue</u>			
Reinstatement fees	\$47,723	\$106,854	\$106,854
<u>Cost - Department of Revenue(DOR)</u>			
Personal Service (2 FTE)	(\$45,500)	(\$57,364)	(\$58,798)
Fringe Benefits	(\$13,991)	(\$17,639)	(\$18,080)
Expense and Equipment	(\$13,946)	(\$2,612)	(\$2,690)
Overtime Pay - Clerk Typist II	(\$14,591)		
State Data Center costs	(\$4,464)		
Forms and Postage Costs	(\$5,165)	(\$1,950)	(\$1,950)
Total <u>Costs</u> - DOR	(\$97,657)	(\$79,565)	(\$81,518)
ESTIMATED NET EFFECT ON HIGHWAY FUND	<u>(\$49,934)</u>	<u>\$27,289</u>	<u>\$25,336</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2001	FY 2002	FY 2003
	(10 Mo.)		
LOCAL			
<u>Income - Cities</u>			
Reinstatement Fees	\$9,545	\$21,391	\$21,391
<u>FISCAL IMPACT - Local Government</u>			
(continued)	FY 2001	FY 2002	FY 2003
	(10 Mo.)		

LOCAL

Income - County Aid Road Trust Fund

Reinstatement Fees	\$6,363	\$14,261	\$14,261
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Cost - Local Jails

Increased jail time	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
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**ESTIMATED NET EFFECT ON
 LOCAL FUNDS**

	<u>\$15,908</u>	<u>\$35,652</u>	<u>\$35,652</u>
	<u>to</u>	<u>to</u>	<u>to</u>
	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Small Business

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

DESCRIPTION

This proposal revises various laws concerning intoxication-related traffic offenses. The blood alcohol content (BAC) level for driving with excessive blood alcohol content is lowered to .08 percent; a violation is a Class C misdemeanor. If the driver is the proximate cause of an accident, the BAC violation may be charged as driving while intoxicated (DWI).

A driver is required to exercise the highest degree of care. A violation is a Class B misdemeanor, but if an accident is involved or aggravating circumstances, a violation is a Class A misdemeanor. "Aggravating circumstances" exist when person suffers death or serious physical injury as a result. The proposal assesses 2 points for any violation of careless and imprudent driving; 4 points if an accident is involved; 6 points if physical injury results; and 8 points if serious physical injury or death results.

Currently, the Department of Revenue assesses 8 points for a person's first driving while intoxicated (DWI) violation. The act assesses 6 points for a first BAC violation; 8 points if BAC is charged as a DWI; and 12 points for a second or subsequent violation for either DWI or BAC when charged as a DWI. The Department of Revenue shall suspend or revoke a license upon

DESCRIPTION (continued)

determining that a person was arrested with probable cause to believe such person was driving with BAC of .10 percent, which constitutes prima facie evidence of intoxication, or a BAC when

the person was proximate cause of an accident.

No person may consume alcoholic beverage or possess open alcoholic beverage container in passenger area of any motor vehicle operated on a public highway or right of way of public highway. An exception is made for tour buses and recreational vehicles, or possession of an open container behind the last upright seat of a vehicle without a trunk. In order to promote sober chauffeur and designated driver programs, the section shall not apply to anyone occupying a vehicle being operated by a person with zero BAC level.

The act defines "intoxication-related traffic offense" as a DWI, and BAC when charged as DWI, for the repeat alcohol offender provisions. A person's fourth DWI conviction within 15 years shall be a Class C felony, if charged as an aggravated driving offender. The act allows courts to impose a suspended imposition of sentence for a prior or persistent offender; however, no prior offender shall be eligible for parole or probation until he has served a minimum of 5 days imprisonment or performs at least 30 days community service. No persistent offender shall be eligible for probation or parole until serving a minimum of 10 days imprisonment or performs at least 60 days community service.

Any person convicted of a second or subsequent intoxication related traffic offense shall be subject to impoundment or immobilization of his motor vehicle, or the installation of an ignition interlock system for up to one year.

Portions of this legislation is federally mandated under the Transportation Equity Act for the 21st Century Restoration Act which requires states to enact Repeat Intoxicated Drivers Laws. It would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Department of Revenue
Department of Public Safety - Missouri State Highway Patrol
Missouri Department of Transportation
State Courts Administrator
Office of the Attorney General
Office of Prosecution Services
State Public Defender



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