

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. NO.: 4272-03  
BILL NO.: SCS for SB's 934, 546, 578, 579 & 782  
SUBJECT: Motor Vehicle; Crimes and Punishments; Alcohol  
TYPE: Original  
DATE: February 4, 2000

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Highway Fund	(\$40,923)	\$20,643	\$18,690
General Revenue	(Unknown, to exceed 100,000)	(Unknown, to exceed \$100,000)	(Unknown, to exceed \$100,000)
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>(Unknown, to exceed \$140,923)</b>	<b>(Unknown, to exceed \$79,357)</b>	<b>(Unknown, to exceed \$81,310)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
<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 LOCAL FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
<b>Local government</b>	<b>\$15,908 to (Unknown)</b>	<b>\$35,652 to (Unknown)</b>	<b>\$35,652 to (Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses

This fiscal note contains 10 pages.

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**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.

Officials from the **Department of Revenue (DOR), General Counsel's Office** assume the provisions of this proposal lowers the legal blood alcohol content limit from ten-hundredths of one percent to eight-hundredths of one percent. This will result in additional administrative hearings, trial-de-novo's and Court of Appeals hearings as the volume of suspended and revoked drivers will increase. Therefore, the Office of the General Counsel would require the services of two (2) Assistant Counsel for 100% of the time to handle DOR legal issues and challenges associated with reduction of the blood alcohol content level. These FTE will also answer telephone inquiries and work directly with the Drivers License Bureau on the implementation of this proposal. This office will also require the services of one (1) Clerk Typist II to handle all secretarial responsibilities.

In addition, the General Counsel's Office would require two (2) Assistant Counsel FTE to handle the additional investigative research identifying the proximate cause of the accident, the issues regarding how the matter was originally charged at both trial de novo and hearing and also to litigate issues regarding whether BAC convictions may continue to be used in ten year denials, proper point assessment etc. **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)

As this legislation will increase the number of DWI convictions, the Driver's License Bureau (DLB) would require two (2) hours of overtime per day by a Clerk Typist II to handle the additional workload associated with this proposal, for a total overtime cost of \$6,080 in FY01 and \$7,296 in FY02 and 03. The DLB did not indicate an increase in the administrative alcohol suspensions and revocations pursuant to section 302.505 RSMo because this proposal only changes the blood alcohol content in section 302.505 RSMo when the offender was the proximate cause of a motor vehicle accident. The DLB would also incur additional postage expense in the amount of \$1,100 in FY 01 and \$1,300 in FY 02 and 03.

In addition this proposal creates new offenses relating careless and imprudent driving. The Drivers License Bureau contacted the Missouri State Highway Patrol (MHP) and obtained data from the 1998 Missouri Traffic Safety Compendium. The compendium shows the number of fatal crashes for 1998 was 1,017 and the number of personal injury crashes as 51,204. The MHP recommended DLB talk to the Department of Health (DOH) regarding the percentages of persons seen at emergency rooms. DOH provided a percentage of persons seen at emergency room for vehicle crashes. The hospital crash records show that 15% of the people seen at the hospital resulting from a crash are treated and released. There are 1.5% that are treated and admitted to the hospital. There are more that refuse medical treatment at the scene and later obtain medical treatment from their private physicians. Using these percentages and totals the following analysis was completed.

51,204	- total personal injury
x 1.5%	- treated and admitted to the hospital
= 768	- total number of serious personal injury/convictions
+ 1,017	- total number of fatal crash/convictions
= 1,785	- total number of <u>serious</u> or fatal injuries/convictions

51,204	- total personal injury
x 15%	- treated and released from emergency room
= 7,680	- total number of <u>moderate</u> personal injury/convictions

DLB assumes that 10% of the total number serious and moderate personal injury convictions would result in a point accumulation suspension, for a total of 2,553 suspension notices generated by DOR ( $1,785 + 7,680 \times 10\% = 2553$ ).

Therefore, this legislation will have minimal impact on the Drivers License Bureau and can be implemented with existing resources.

ASSUMPTION (continued)

## REVENUE IMPACT

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The DLB anticipates that 33% of the licenses suspended as a result of a conviction for the enhanced provisions for careless and imprudent driving will be reinstated ( $2,553 \times 33\% = 843$  licenses reinstated). Therefore, DOR anticipates reinstatement fees, at \$20 each, would generate approximately \$12,600 in FY01 and \$16,860 in FY02 and 03, to be split between the Highway Fund and Cities and CART. Since this legislation is effective 8/28/00 and a first suspension is for 30 days the reinstatements will not be incurred until 10/1/00. The following calculation is based on 9 months for FY01.

**FY01**

$843/12 = 70 \times 9$  months (FY01) = 630  
 $630 \times \$20 = \$12,600$

$\$12,600 \times 75\% = \$9,450$  Highway

$\$12,600 \times 15\% = \$1,890$  Cities

$\$12,600 \times 10\% = \$1,260$  CART

**FY02 & 03**

$843 \times \$20 = \$16,860$

$\$16,860 \times 75\% = \$12,645$  Highway

$\$16,860 \times 15\% = \$ 2,529$  Cities

$\$16,860 \times 10\% = \$ 1,686$  CART

Additionally, increased revenues would result from lowering the blood alcohol content from .10% to .08% on convictions. 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 90 day suspension and one year revocation periods have ended. It is projected there will be a total of \$14,805 in reinstatement fees received in FY01 and \$33,030 in FY02 and 03.

**FY 01**

$558 /12$  months =  $47 \times 7$  months =  $329 \times \$45 = \$14,805$

$\$14,805 \times 75\% = \$11,104$  Highway Fund

$\$14,805 \times 15\% = \$ 2,221$  Cities

$\$14,805 \times 10\% = \$ 1,481$  CART

ASSUMPTION (continued)

**FY 02 and FY 03**

$734 \times \$45 = \$33,030$

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\$33,030 x 75% = \$24,773 Highway Fund  
\$33,030 x 15% = \$ 4,955 Cities  
\$33,030 x 10% = \$ 3,303 CART

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 FY2001. The DOR will also incur state data center costs in the amount of \$4,464 to implement the provisions of this proposal.

**Oversight** has adjusted the anticipated revenue impact to reflect a response received from DOR on a similar fiscal note request. Based on a similar proposal, DOR projected there would 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.

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.

Officials of the **Missouri Department of Transportation (MoDOT)** stated that this legislation does not fulfill the requirements of TEA 21 for either open container or repeat offenders. In the TEA 21 Restoration Act of June, 1998, Congress passed laws requiring states to toughen repeat drunk driving laws and pass open container laws. Currently, Missouri has an anti-consumption law. If Missouri does not implement an open container or a repeat offender law by October 1, 2000, Missouri must transfer 1½ percent of its Surface Transportation Program, Interstate ASSUMPTION (continued)

Maintenance, and National Highway System funds to either 23 U.S.C. Section 402 (drunk driving enforcement) or Section 152 (hazard elimination) programs *for each law not passed*. This transfer percentage doubles if neither law is in place by October 1, 2002, to 3 percent *per law not passed*. Therefore, the transfer of federal funds may be: \$12.4 million for FY01, \$12.6

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million for FY02 and \$25.2 million for FY03.

MoDOT has received a memorandum from National Highway Traffic Safety Administration which stated that this legislation does not comply with TEA 21. Therefore, the legislation has the above mentioned impact.

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.

#### ASSUMPTION (continued)

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.

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**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 (9 Mo.)	FY 2002	FY 2003
<b>GENERAL REVENUE FUND</b>			
<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)
<b>HIGHWAY FUND</b>			
<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	(\$6,080)	(\$7,296)	(\$7,296)
State Data Center costs	(\$4,464)		
Forms and Postage Costs	(\$4,665)	(\$1,300)	(\$1,300)
Total <u>Costs</u> - DOR	(\$88,646)	(\$86,211)	(\$88,164)
<b>ESTIMATED NET EFFECT ON HIGHWAY FUND</b>	<b><u>(\$40,923)</u></b>	<b><u>\$20,643</u></b>	<b><u>\$18,690</u></b>

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

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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**

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

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

DESCRIPTION (continued)

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 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.



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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 21<sup>st</sup> 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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