

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

**L.R. NO.:** 4272-12  
**BILL NO.:** HS for HCS for SS # 2 for SCS for SB's 934, 546, 578, 579 & 782 with HSA 1 for HA 1, HA's 2, 3, 4, 5, 6, 7, 8, HSA 1 for HA 9, HA's 10 and 11  
**SUBJECT:** Motor Vehicle; Crimes and Punishments; Alcohol  
**TYPE:** Original  
**DATE:** May 11, 2000

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Highway Fund	\$23,495	\$74,567	\$74,567
Drug and Alcohol Abuse Court Resources Fund	\$0	\$0	\$0
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 \$76,505)</b>	<b>(Unknown, to exceed \$25,433)</b>	<b>(Unknown, to exceed \$25,433)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
<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>County Crime Reduction Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Local government</b>	<b>\$19,412 to (Unknown)</b>	<b>\$33,277 to (Unknown)</b>	<b>\$33,277 to (Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses

This fiscal note contains 13 pages.

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## FISCAL ANALYSIS

### ASSUMPTION

Officials of the **Department of Public Safety - Missouri State Highway Patrol, Water 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)** assume this proposal creates a new crime of aggravated driving with excessive blood alcohol content of .15% or more. This proposal requires a 90 day suspension if convicted of aggravated driving with excessive blood alcohol content and the individual is not eligible to obtain a limited driving privilege. In order to be reinstated, the individual must pay a \$45 reinstatement fee and complete a substance abuse traffic offenders program. Aggravated driving while intoxicated, assault in the second degree and assault of a law enforcement officer in the second degree will be used to initiate a five year denial of a driving privilege. This proposal also decreases the legal limit of intoxication from .10% to .08% for operating a motor vehicle. In addition, minimum limit of intoxication for the administrative per se law has been reduced to .08%. No individual convicted of aggravated driving with excessive blood alcohol content is eligible to receive a limited driving privilege as this offense upon conviction is a felony.

A court **may** require an individual convicted of a first intoxication-related offense, and **shall** require an individual convicted of a second or subsequent intoxication-related offense not to operate **or own** a motor vehicle unless that vehicle is equipped with an ignition interlock device for a period of at least one month after the date of reinstatement of the individual's driving privilege. In addition any court granting a limited driving privilege to anyone convicted of a second or subsequent intoxication related traffic offense shall require the individual to have an ASSUMPTION (continued)

ignition interlock device installed on all vehicles they own or operate.

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Finally, a court may impound or immobilize all vehicles owned or operated by any person who is convicted of a second or subsequent intoxicated-related traffic offense in lieu of requiring the individual to install an ignition interlock device on such vehicles.

The Drivers License Bureau (DLB) currently receives convictions and administrative suspension documentation relating to driving while intoxicated with a blood alcohol content of .15% or more. The new conviction of aggravated driving with excessive blood alcohol content will not have an impact on the Drivers License Bureau.

Revisions to section 577.010.2 will no longer allow a court to impose a suspended imposition of sentence on a first alcohol related offense. The DLB estimates 4,338 additional convictions will be assessed points and added to the driving record. The Drivers License Bureau will require two hours of Clerk Typist II overtime per day to handle the additional volume of convictions.

Revisions to section 577.037 reduce the minimum limit of intoxication that can be used as prima facie evidence to .08. The Drivers License Bureau Estimates this reduction will generate an additional 2,794 convictions for driving while intoxicated. The Drivers License Bureau will require 1.5 hours of Clerk Typist II overtime per day to handle the additional volume of convictions.

In addition, reducing the minimum level of intoxication under the administrative per se law will result additional administrative alcohol arrest documentation being sent to the Drivers License Bureau. The Drivers License Bureau estimates the additional administrative alcohol arrest documentation will require two hours of Clerk Typist II overtime per day to process. Total overtime requested per day for all these items = 5.5 hours per day. This results in anticipated overtime costs of \$16,719 in FY 01 and \$20,063 in FY 02 and 03.

260	Days per year
x 5.5	Overtime hours required
1,430	Total overtime hours

\$14.03	Overtime hourly rate
x 1,430	Overtime hours required
\$ 20,063	Total overtime required

ASSUMPTION (continued)

**Revenue Increase**

The increase in alcohol convictions as a result of the elimination of suspended imposition of sentences for driving while intoxicated convictions and the reduction in the minimum level of intoxication for driving while intoxicated convictions to .08 will result in additional suspensions

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and revocations of driving privileges. In addition, the reduction of the minimum level of intoxication to .08 will result in additional suspensions and revocations imposed under the administrative per se law. Subsequently, an increase in reinstatement fees will also be incurred.

The Drivers License Bureau estimates an additional 4,338 suspensions/revocations imposed as a result of eliminating the court's ability to impose a suspended imposition of sentence.

The Drivers License Bureau estimates an additional 2,794 suspensions/revocations as a result of the reduction of the minimum level of intoxication to .08 for driving while intoxicated convictions.

The Drivers License Bureau estimates 4,244 additional suspensions/revocations as a result of the reduction of the minimum level of intoxication to .08 under the administrative per se law.

The current compliance rate for reinstatements on actions relating to driving while intoxicated is 26%. Therefore, of the 11,376 additional convictions anticipated, 2,958 are expected to come into compliance and be reinstated, resulting in an additional \$133,110 collected in reinstatement fees.

4,338	Actions due to elimination of S.I.S.
2,794	Actions due to .08 on convictions
<u>+ 4,244</u>	Actions due to .08 administrative per se
11,376	
<u>x 26%</u>	Reinstatement Rate
2,958	
<u>x \$45</u>	Reinstatement Fee
<b>\$133,110</b>	<b>Revenue Increase</b>

$\$133,110/12 \times 7 \text{ months} = \$77,648$

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ASSUMPTION (continued)

<u>FY 01</u>		<u>FY 02 &amp; 03</u>	
\$58,236	Highway Fund	\$99,833	Highway Fund
\$11,647	Cities	\$19,967	Cities
\$ 7,765	CART	\$13,310	CART

**Postage Costs**

The Drivers License Bureau will be required to mail an additional 9,519 documents as a result of this legislation. These documents include correspondence, notices of suspension/revocation, and notices of reinstatement.

9,519  
x \$.33 Postage Rate  
 \$3,141

**Forms**

The Drivers License Bureau will be required to modify and replace the existing stock of alcohol influence reports. This will require the ordering and distribution of 200,000 forms. Total forms costs equal approximately \$6,017. In order to mail modified alcohol arrest forms to law enforcement agencies, the Drivers License Bureau will require postage in the amount of \$3,070.

DOR estimates the State Data Center costs to be \$4,600 in FY01.

Officials of the **State Courts Administrator (CTS)** stated the proposed legislation would: tighten the standard for presuming driving while intoxicated by changing the blood alcohol standard from 0.1 to .08; restrict eligibility for a hardship license; and any probationer or parolee for any alcohol-related offense as those required to complete a SATOP program before they are released from probation or parole; require the court to order the offender to pay restitution to the state in the amount of any fee or portion of any fee paid by the state on behalf of the offender; increase the penalty for first offense DWI and prohibit an SIS for all; create the classification of "dangerous persistent offender" and change the definition of "persistent offender" and "prior offender" and create a class of "repeat offender"; mandate 48 hours incarceration for some offenders; and repeal the statute allowing first offense alcohol convictions to be expunged. 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 will be an impact on the Department of Corrections.

ASSUMPTION (continued)

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Officials of the **Missouri Department of Transportation (MoDOT)** stated this proposal is compliant with federal requirements for the blood alcohol content of .08. However, it is unsure if the provisions relating to repeat offenders is in compliance. MoDOT has not received a ruling from the National Highway Traffic Safety Administration; therefore, the impact of this legislation is unknown.

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 \$35.61 per inmate, per day) or through supervision provided by the Board of Probation and Parole (average of \$2.47 per offender, per day).

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 medium- security inmate bed is \$48,300 (a maximum-security inmate bed is \$55,000). Utilizing this per 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.

Due to the wide variance of crimes and punishments including newly created crimes and punishments, the fiscal impact as it relates to the DOC is unknown, but estimated to be significant, or in excess of \$100,000 per year. 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.

**Oversight** assumes this proposal could result in increased jail time and therefore has ranged the costs to local government from \$0 to (unknown).

ASSUMPTION (continued)

Officials from the **Department of Public Safety, Division of Highway Safety** stated if this bill puts Missouri in compliance with Congressional TEA-21 requirements (23 CFR Part 1225

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Section 163) concerning .08 BAC, Missouri would be eligible to receive an Incentive Grant in excess of \$3 mil. If this legislation puts Missouri in compliance with Congressional TEA-21 requirements (23 CFR Part 1270 Section 154) concerning Open Containers, the state would avoid transfer of federal highway funds (in excess of \$6 M) from construction projects to hazard elimination and/or safety projects. If this legislation puts Missouri in compliance with

Congressional TEA-21 requirements (23 CFR Part 1275 Section 164) concerning Repeat Offenders, the state would avoid transfer of federal highway funds (in excess of \$6 M) from construction projects to hazard elimination and/or safety projects.

#### Section 50.550 - County Crime Reduction Fund

**Oversight** assumes this section is permissive and would have no fiscal impact unless the County Commission would by resolution create the County Crime Reduction Fund. Should a County Commission establish a Crime Fund, the fund would be eligible to receive monies from fines levied for misdemeanors, as a condition of probation. The fine could not exceed \$1,000.

For purposes of this fiscal note Oversight will show fiscal impact from these sections as \$0 or unknown. Oversight assumes the unknown fiscal impact would be positive.

#### Section 311.299 - Alcoholic Beverages

Officials from the **Department of Mental Health** and the **Department of Health** assume this proposal would not fiscally impact their agencies.

In response to an identical proposal last session, officials from the **Department of Public Safety - Division of Liquor Control**, assumed this proposal would not fiscally impact their agency.

#### Section 478.001 and 478.009 - Drug and Alcohol Abuse Courts Coordinating Commission

Officials from the **Office of the Attorney General**, the **Office of the State Treasurer**, the **Office of State Courts Administrator**, the **Office of Administration**, the **Department of Corrections**, the **Department of Social Services**, and the **Department of Mental Health** assume the proposal would have no fiscal impact on their agencies.

#### ASSUMPTION (continued)

Officials from the **Department of Public Safety (DPS)** assume the proposal would create a Drug and Alcohol Abuse Courts Coordinating Commission to oversee all drug courts in the state of Missouri. The Commission would consist of eight members, one to be selected by the director of the Department of Public Safety. DPS assumes the expenses incurred by the commissioner

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appointed by DPS (i.e., mileage, meals, and hotel) would cost their agency approximately \$4,800 annually.

**Oversight** assumes that all of the members of the Drug and Alcohol Abuse Court Commission would be selected by state agencies which have offices geographically located in Jefferson City, Missouri, and the proposal does not require meetings to be held outside of Jefferson City. Therefore, Oversight assumes that any mileage, meal, and hotel expenses would be minimal and could be absorbed with existing resources.

**Oversight** assumes that any costs associated with the creation of the Drug and Alcohol Abuse Court Resources Fund would be minimal and could be absorbed with existing resources.

<u>FISCAL IMPACT - State Government</u>	FY 2001	FY 2002	FY 2003
	(10 Mo.)		

**GENERAL REVENUE FUND**

Cost - Department of Corrections

Increased incarcerations and increased probation and parole	<b>(Unknown, to exceed \$100,000)</b>	<b>(Unknown, to exceed \$100,000)</b>	<b>(Unknown, to exceed \$100,000)</b>
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**HIGHWAY FUND**

Income - Department of Revenue

Reinstatement fees	\$58,236	\$99,833	\$99,833
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Cost - Department of Revenue(DOR)

Overtime Pay - Clerk Typist II	(\$16,719)	(\$20,063)	(\$20,063)
State Data Center	( 4,600)	0	0
Forms	( 6,017)	0	0
Postage	( 7,405)	( 5,203)	( 5,203)
<u>Total <u>Costs</u> - DOR</u>	<u>(\$34,741)</u>	<u>(\$25,266)</u>	<u>(\$25,266)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2001	FY 2002	FY 2003
	(10 Mo.)		

<b>ESTIMATED NET EFFECT ON HIGHWAY FUND</b>	<b><u>\$23,495</u></b>	<b><u>\$74,567</u></b>	<b><u>\$74,567</u></b>
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**DRUG AND ALCOHOL ABUSE COURT RESOURCES FUND**



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Income - Appropriations, gifts, bequests, etc. \_\_\_\_\_ Unknown      Unknown      Unknown  
Cost - Drug Court Commission operations \_\_\_\_\_ Unknown      Unknown      Unknown

**ESTIMATED NET EFFECT ON DRUG  
 AND ALCOHOL ABUSE COURT  
 RESOURCES FUND** \_\_\_\_\_ **\$0**      **\$0**      **\$0**

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
<b>LOCAL</b>			
<u>Reinstatement Fees - Cities</u>	\$11,647	\$19,967	\$19,967
<u>Reinstatement Fees - Counties</u>	\$ 7,765	\$13,310	\$13,310
<u>Cost - Local Jails</u>			
Increased jail time	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

**ESTIMATED NET EFFECT ON  
 LOCAL FUNDS** \_\_\_\_\_ **\$19,412**      **\$33,277**      **\$33,277**  
 \_\_\_\_\_ **to**      **to**      **to**  
 \_\_\_\_\_ **(Unknown)**      **(Unknown)**      **(Unknown)**

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FISCAL IMPACT - Local Government                      FY 2001              FY 2002              FY 2003  
 (continued)    (10 Mo.)

**COUNTY CRIME REDUCTION FUND**

	FY 2001	FY 2002	FY 2003
<u>Income</u> to County Crime Reduction Fund from fines, county , federal matching funds	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
<u>Cost</u> to County Crime Reduction Fund for supplementing criminal Investigations and Prosecutions	(\$0 to Unknown)	(\$0 to Unknown)	(\$0 to Unknown)

**ESTIMATED NET EFFECT TO COUNTY CRIME REDUCTION FUND\***    \$0    \$0    \$0

**\*Oversight assumes this provision is permissive and annual costs would not exceed income, therefore, fiscal impact would be either zero or a positive fund balance.**

FISCAL IMPACT - Small Business

This proposal would require licensed liquor establishments to post a warning sign notifying pregnant women that alcoholic beverages during pregnancy may cause birth defects. The impact would be minimal.

DESCRIPTION

This proposal makes a number of changes to statutes regarding blood alcohol content traffic violations.

- (1) Changes the blood alcohol content (BAC) level necessary for a conviction of driving with excessive BAC to .08. Currently, the BAC for this violation is .10 (Section 577.012, RSMo). The proposal also requires the license of an offender of this provision to be suspended for 90 days, an increase from the current 30-day suspension (Section 302.304);
- (2) Increases the penalty for driving while intoxicated from a class B misdemeanor to a class A misdemeanor for the first offense. The proposal also deletes the provision allowing a suspended imposition of sentence for driving while intoxicated if the offender receives probation (Section 577.010);

DESCRIPTION (continued)

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(3) Creates the crime of "aggravated driving with excessive blood alcohol content," which is the operation of a motor vehicle with a BAC of .15. The penalties are a class D felony for the first offense, a class C felony for the second offense, a class B felony for the third and subsequent offenses (Section 577.015). No limited driving privileges are available (Section 302.309);

(4) Creates the "dangerous persistent offender" category of driver, who has previously been found guilty of either involuntary manslaughter, certain types of assault, or 4 or more intoxication-related traffic offenses. This is a class A felony. (Section 577.023);

(5) Changes the definition of "persistent offender" to include offenders who have been found guilty of 3 or more intoxication-related offenses at any time. Persistent offenders are guilty of a class B felony. Currently, these offenders must have been found guilty of only 2 or more intoxication-related offenses in 10 years, and it is a class D felony (Section 577.023);

(6) Changes the definition of "prior offender" to apply to persons previously convicted of 2 violations at any time, and increases the penalty to a class C felony. Currently, prior offenders are guilty of a class A misdemeanor if the offense is committed twice in 5 years (Section 577.023);

(7) Requires 10 days imprisonment as a condition of parole for prior, persistent, or dangerous persistent offenders, unless the offender performs at least 160 hours of community service (Section 577.023);

(8) Creates the "repeat offender" category of offenders, which includes persons who have been found guilty of one intoxication-related traffic offense. Repeat offenders are guilty of a class D felony. The substitute requires a minimum of 5 days imprisonment as a condition of parole for repeat offenders, unless as a condition of parole, the offender performs 30 days community service (Section 577.023);

(9) Repeals provisions allowing the expungement of alcohol-related driving offense records (Section 577.054);

(10) Deletes provisions relating to ignition interlock devices and replaces them with provisions that allow a court to either require ignition interlock devices or impound or immobilize all vehicles owned and operated by an offender found guilty of a second or subsequent intoxication-related offense (Sections 577.600, 577.700).

DESCRIPTION (continued)

No person may consume an alcoholic beverage or possess an open alcoholic beverage container in

PMM:LR:OD:005 (9-94)

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the passenger area of any motor vehicle operated on a public highway or right of way of public highway.

Allows the creation of a County Crime Reduction Fund to be governed by a board and to supplement the cost of criminal investigations or prosecutions. As a condition of probation, the court may require a contribution to the fund not to exceed \$1,000 for a misdemeanor.

This proposal requires any person licensed by the Division of Liquor Control to sell or serve alcoholic beverages at an establishment to post a warning sign stating that alcohol consumption during pregnancy may cause birth defects. The sign would be displayed in a conspicuous place.

The proposed legislation would establish a Drug and Alcohol Abuse Courts Coordinating Commission to evaluate resources available for assessment and treatment and for the operation of drug courts. The Commission would also secure funds and services desirable to facilitate drug court operation and allocate resources among the various drug courts operating within the state.

The Commission would be comprised of one member selected by the Department of Corrections, the Department of Social Services, the Department of Mental Health, the Department of Public Safety, and the State Courts Administrator, as well as three members selected by the Supreme Court. The Supreme Court would also designate the chairman of the Commission. A Drug and Alcohol Abuse Court Resources Fund would be established in the state treasury, to be administered by the Commission.

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, would not require additional capital improvements or rental space.

#### SOURCES OF INFORMATION

Department of Revenue  
Department of Public Safety  
- Missouri State Highway Patrol  
- Missouri Water Patrol

#### SOURCES OF INFORMATION (continued)

- Division of Highway Safety  
- Division of Liquor Control  
Missouri Department of Transportation  
State Courts Administrator

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Office of Prosecution Services  
State Public Defender  
Department of Health  
Department of Mental Health  
Office of the State Treasurer  
Office of Administration  
Department of Mental Health  
Department of Corrections  
Department of Social Services



Jeanne Jarrett, CPA  
Director  
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