

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2471-04
Bill No.: SCS for SB 660
Subject: Alcohol; Motor Vehicles.
Type: Original
Date: January 25, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
None			
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 4 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Transportation (DHT)** stated this proposal would prohibit the possession of alcoholic beverage containers as required pursuant to the open container mandates in the TEA 21 Restoration Act. DHT states this act complies with the majority of the federal mandates, however, new subsection 7 of section 577.017, RSMo, provides that an open alcoholic beverage container must have more than a "de minimis" amount of alcohol. Otherwise, if it is empty or has only a "de minimis" amount, it is not considered an open, alcoholic beverage container.

DHT states the National Highway Traffic Safety Administration (NHTSA) promulgated their Final Rule on Open Containers in August 2000. In the final rule, NHTSA published comments from the National Association of Governor's Highway Safety Representatives (NAGHSR). NAGHSR asked that the prohibition on open alcoholic beverage containers not be limited to receptacle's that "contain any amount of alcoholic beverage." NHTSA declined to do so, saying that the definition of an open container was limited by the statute and that it can not be changed.

DHT assumes that unless NHTSA has, since August 2000, rescinded this opinion, the provisions in subsection 7 of this proposal will not comply with the federal open container mandates. Therefore, Missouri Highway and Transportation Commission will be required to transfer \$12 million in federal construction funds to highway safety programs pursuant to 23 C.F.R. 1270.

For federal fiscal year 2001, DHT was required to transfer over \$6 million in federal highway fund apportionments because Missouri did not have a compliant open container prohibition. DHT states that if Missouri continues to be in non-compliance with the federal requirements on open containers, Missouri's transfer amounts will double to \$12 million annually beginning October 2002. These monies can only be spent on highway safety projects, like eliminating roadside hazards or drunk driving enforcement and can not be spent on new construction.

Officials from the **Department of Public Safety - Division of Highway Safety (DHS)** state that conforming legislation must be enacted by 10/01/2002, or 3% (\$10.5 million) of Highway Funds will transfer to the Division of Highway Safety. These funds must be used for alcohol-impaired driving countermeasures or DHT Hazard Elimination Projects. DHS states this transfer would remain in effect through FY 2005 (10/01/2004 - 9/30/2005) unless a revised federal bill is passed.

Oversight assumes these penalties are prospective and dependent on future events, and has excluded these costs from the estimate of fiscal impact.

ASSUMPTION (continued)

Officials from the **Office of the State Public Defender, Department of Public Safety - Missouri Highway Patrol** and the **Department of Revenue** each assume this proposal would not fiscally impact their respective agencies.

Officials from the **Office of Prosecution Services** assumed as this is a revision of an existing crime, it should have no impact on prosecutors.

Officials from the **Office of the State Courts Administrator (CTS)** state the proposed legislation would expand the open container law. CTS states that depending on the degree of enforcement, there may be an increase in the number of cases initially. However, after a period of adjustment, CTS would anticipate substantial compliance, and would not expect a significant impact on the workload of the judiciary.

In response to similar legislation from this year, officials from the **Jefferson City Police Department** assumed the proposal would not fiscally impact their agency.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

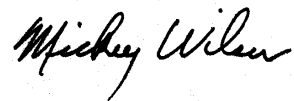
DESCRIPTION

This proposal prohibits passengers, as well as drivers, from possessing or consuming an open container of an alcoholic beverage in the passenger area of a motor vehicle on a highway or a right-of-way. A person violating this proposal shall be guilty of an infraction with a penalty not to exceed \$25. This proposal does not apply to passengers in the passenger area of motor vehicle used to transport persons for compensation or to passengers in the living quarters of a house coach, house trailer or recreational motor vehicle. This proposal shall also not apply to the possession of an open container behind the last upright seat of a motor vehicle that is not equipped with a trunk. The proposal also defines "alcoholic beverage", "passenger area" as well as "open alcoholic beverage container."

This legislation would not duplicate any other program and would not require additional capital improvements or rental space. This proposal is, however, federally mandated under the United States Code, Title 23, Section 154.

SOURCES OF INFORMATION

Department of Public Safety
Missouri Highway Patrol
Division of Highway Safety
Office of Prosecution Services
Office of the State Courts Administrator
Office of the State Public Defender
Department of Transportation
Jefferson City Police Department
Department of Revenue



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January 25, 2002