

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0174-01  
Bill No.: SB 164  
Subject: Motor Vehicles; Alcohol; Crimes and Punishment.  
Type: Original  
Date: January 6, 2003

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
None			
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 5 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
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>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### **FISCAL ANALYSIS**

#### **ASSUMPTION**

Officials from the **Office of the Attorney General, 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.

Officials from the **Missouri Department of Transportation (MoDOT)** stated this proposal would prohibit the possession of alcoholic beverage containers as required pursuant to the open container

ASSUMPTION (continued)

mandates in the TEA 21 Restoration Act. MoDOT 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 minimus” amount of alcohol. Otherwise, if it is empty or has only a “de minimus” amount, it is not considered an open, alcoholic beverage container.

MoDOT 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 did not allow for de minimus amounts.

MoDOT therefore assumes that the language in this legislation will not comply with federal open container requirements. Therefore, the Missouri Highway and Transportation Commission will be required to transfer \$12 million in federal construction funds to highway safety programs pursuant to either Title 23, United States Code, Section 402 (drunk driving enforcement) or Section 102 (Hazard Elimination projects) annually beginning in October 2003.

Officials from the **Department of Public Safety - Division of Highway Safety (DHS)** state that conforming legislation must be enacted by October 1, 2002, or 3% (\$10.5 million) of Highway Funds will transfer to the State’s Highway Safety Program. DHS states that subsection 7(1) of the proposal exempts a bottle, can or other receptacle which contains a “de minimus amount” of alcohol. DHS states this wording, according to the National Highway Transportation Safety Administration, would prevent Missouri from being federally compliant and would, therefore, still be subject to transfer of the federal aid highway funds.

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

FISCAL IMPACT - State Government

FY 2004  
(10 Mo.)

FY 2005

FY 2006

	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
	<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."

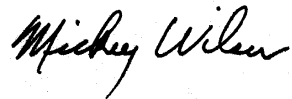
This legislation would not duplicate any other program and would not require additional capital improvements or rental space. This proposal is, however, federally mandated under the United States Code, Title 23, Section 154.

SOURCES OF INFORMATION

RAS:LR:OD (12/02)

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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  
Department of Revenue  
Office of the Attorney General

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
January 6, 2003