

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0130-01
Bill No.: SB 81
Subject: Crimes and Punishment, Evidence, Criminal Procedure, Revenue Department,
Licenses - Driver's, Alcohol
Type: Original
Date: January 16, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(Unknown, to exceed \$100,000)	(Unknown, to exceed \$100,000)	(Unknown, to exceed \$100,000)
Highway Funds	(\$9,100)	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	(Unknown, to exceed \$109,100)	(Unknown, to exceed \$100,000)	(Unknown, to exceed \$100,000)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

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

FISCAL ANALYSIS

ASSUMPTIONS

Officials of the **Department of Public Safety - Missouri State Highway Patrol**, and **Division of Highway Safety, Missouri Department of Transportation, Department of Social Services, Office of State Courts Administrator, Office of the Attorney General, and Department of Health**, assume this proposal would have no fiscal impact to their agencies.

Officials of the **State Public Defender (SPD)** assume that existing staff could provide representation for those 50-75 cases arising 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 in the additional cases.

Officials from the **Department of Mental Health (DMH)** assume this proposal would not fiscally impact their agency based on the provisions in the proposal that the offender shall pay the cost of the program, and the court shall order restitution to the state in the amount of any fees paid by the state on behalf of the offender. The department is assuming the client will pay the full cost of the program and there will be no cost to the department for collection of these fees.

In response to a similar proposal in the prior session, officials of the **Department of Corrections (DOC)** assume the penalty provision portions (with no suspension of sentence) of the proposed revisions in this proposal which would have fiscal impact for DOC are:

- ▶ a class A misdemeanor charge for the first offense when the defendant has a prior conviction, as defined, within ten years -- the impact would be for supervision for probation;
- ▶ a class D felony for charges for the second offense within ten years -- the impact would be for probation, parole and/or incarceration;
- ▶ a class C felony for charges for the third or subsequent offense within ten years -- the impact would be for 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.

ASSUMPTIONS - continued

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) or through supervision provided by the Board of Probation and Parole (average of \$3.50 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 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. Oversight also assumes that local jail populations could be affected by mandatory sentencing outlined in this proposal, but assume the fiscal impact would be minimal.

Officials from the **Department of Revenue (DOR)** assume the Driver and Vehicle Services Bureau will require funding for forms revisions and postage in order to indicate penalties regarding an arrest for an offense of aggravated driving with excessive blood alcohol content.

The Driver and Vehicle Services Bureau will be required to modify the Alcohol Influence Report (form DOR-2389) and the Notice of Suspension/Revocation (form DOR-2385). The Driver and Vehicle Services Bureau will distribute 100,000 of each of these forms to law enforcement agencies throughout the state. Costs for reprinting these forms are estimated to be \$6,000. The Driver and Vehicle Services Bureau will require approximately \$3,100 in postage costs associated with the distribution of these forms to law enforcement agencies throughout the state.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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GENERAL REVENUE FUND

Cost - Department of Corrections

Increased incarcerations and increased probation and parole	(Unknown, to exceed \$100,000)	(Unknown, to exceed \$100,000)	(Unknown, to exceed \$100,000)
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ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Unknown, to exceed <u>\$100,000</u>)	(Unknown, to exceed <u>\$100,000</u>)	(Unknown, to exceed <u>\$100,000</u>)
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HIGHWAY FUND

Cost - Department of Revenue

Forms and Postage Costs	(\$9,100)	\$0	\$0
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ESTIMATED NET EFFECT ON HIGHWAY FUND	<u>(\$9,100)</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<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 creates the crime of driving with an aggravated blood alcohol content for operation of vehicle with .15% BAC level. The first offense is a Class B misdemeanor. Second and subsequent offenses track the current criminal penalties for repeat DWI and BAC violations. Creates a minimum ninety-day license suspension period for convictions, and restricts the availability of limited driving privileges after a conviction.

DESCRIPTION - continued

Persons guilty of aggravated BAC must complete a new substance abuse traffic offender program for repeat or problem offenders. The period of license suspension, revocation or denial is the same as for DWI offenses, except offenders are not eligible to receive a limited driving privilege during any period of license suspension, revocation or denial.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Public Safety - Missouri State Highway Patrol
Department of Public Safety - Division of Highway Safety
Missouri Department of Transportation
Department of Social Services
Office of State Courts Administrator
Office of the Attorney General
Department of Health
Department of Mental Health
Department of Corrections
Department of Revenue

NOT RESPONDING

Office of Administration, Division of Budget and Planning
Department of Public Safety, Division of Liquor Control
Department of Public Safety, Division of Water Safety
Office of the State Treasurer



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Director
January 16, 2001