

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1367-03  
Bill No.: HCS for HB 441  
Subject: Drugs and Controlled Substances; Law Enforcement Officers and Agencies  
Type: Original  
Date: February 11, 2005

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown less than \$100,000)</b>	<b>(Unknown less than \$100,000)</b>	<b>(Unknown less than \$100,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
<b>Total Estimated Net Effect on <u>Other</u> 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 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
<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 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Office of Attorney General, Office of State Courts Administrator, Department of Health and Senior Services, Department of Public Safety (DPS) - Director's Office, and DPS - Missouri State Highway Patrol** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Department of Economic Development -Division of Professional Registration (PR)** state that having reviewed the proposal and having sought the conclusion of the appropriate boards(s), they are of the opinion that the proposal in its present form, has no fiscal impact on PR. However, should additional requirements be imposed on the Board of Pharmacy, additional expenses may be incurred by the Board of Pharmacy.

Officials from the **Department of Corrections (DOC)** assume this proposal adds substances to the controlled substance schedules.

Currently, the DOC cannot predict the number of new commitments which may result from the addition of substances to the controlled substance schedule outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

ASSUMPTION (continued)

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY04 average of \$38.37 per inmate per day, or an annual cost of \$14,005 per inmate) or through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

Supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, the DOC assumes the impact would be less than \$100,000 per year for their agency.

Officials from the **Office of Secretary of State (SOS)** state the proposal revises laws relating to Schedule V controlled substances and the dispensing of ephedrine and pseudoephedrine. The Department of Health and Senior Services may promulgate rules to implement this legislation. These rules will be published in the Missouri Register and Code of State Regulations. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Health and Senior Services could require as many as 30 pages in the Code of State Regulations. For any given rule, roughly one-half again as many pages are published in the Missouri Register as are published in the Code because of cost statements, fiscal notes and notices that are not published in the Code. The estimated cost of a page in the Missouri Register is \$23. The estimated cost of a page in the Code of State Regulations is \$27. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules, filed, amended, rescinded, and withdrawn. The SOS estimates the cost of the proposal to be \$1,845 [(30 pgs. X \$27) + (45 pgs. X \$23)] for FY 06.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Office of Prosecution Services (OPS)** did not respond to our request for a statement of fiscal impact. However, in response to a previous version of this proposal, the OPS stated the proposal will not have a significant direct fiscal impact on county prosecutors.

Officials from the **Office of State Public Defender (SPD)** did not respond to our request for a statement of fiscal impact. However, in response to a previous version of this proposal, the SPD assumed the proposal would have no fiscal impact on their organization.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (12 Mo.)	FY 2007	FY 2008
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**GENERAL REVENUE FUND**

Costs - Department of Corrections

Increase in probation or incarceration costs	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>
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**ESTIMATED NET EFFECT ON GENERAL REVENUE FUND**

<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2006 (12 Mo.)	FY 2007	FY 2008
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<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

This proposal will have an impact on small business pharmacies and retail establishments that sell pseudoephedrine products.

DESCRIPTION

This substitute creates several restrictions regarding the sale of compounds containing ephedrine or pseudoephedrine. The purchase of products containing ephedrine or pseudoephedrine, other than those in liquid or gel capsule form, is limited to nine grams of ephedrine or pseudoephedrine per month. Current law limits only the amount of ephedrine or pseudoephedrine that can be purchased at one time.

Compounds containing these drugs may be sold only by pharmacies. The pharmacy must keep a log of all sales, keep all of these products behind a counter where the public is not permitted, and demand photo identification from the purchaser proving he or she is at least 18 years of age. All records of these sales will be open for inspection by law enforcement officials.

These restrictions do not apply to compounds that are in a liquid or gel capsule form. In addition, the Department of Health and Senior Services may, by rule, grant exemptions for any drug that the department finds is not used in the illegal manufacture of methamphetamine or other controlled substances.

DESCRIPTION (continued)

A violation of these provisions is a class A misdemeanor.

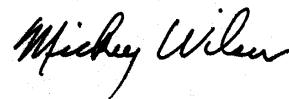
The substitute contains an emergency clause.

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

Office of Attorney General  
Office of State Courts Administrator  
Department of Economic Development -  
    Division of Professional Registration  
Department of Corrections  
Department of Health and Senior Services  
Department of Public Safety -  
    Director's Office  
    Missouri State Highway Patrol  
Office of Secretary of State

**NOT RESPONDING: Office of Prosecution Services and Office of State Public Defender**



Mickey Wilson, CPA  
Director  
February 1, 2005