

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1367-04
Bill No.: SCS for HCS for HB 441
Subject: Drugs and Controlled Substances; Law Enforcement Officers and Agencies
Type: Original
Date: April 18, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
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)
Total Estimated Net Effect on General Revenue Fund	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)

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

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **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 **Office of Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development - Division of Professional Registration (DED-PR)** state having reviewed the proposed legislation and having sought the conclusion of the appropriate board(s), they are of the opinion that the proposal, in its present form, will have no fiscal impact on the DED-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 **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 **ASSUMPTION** (continued)

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 an earlier version of this proposal, the OPS stated the proposal would 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 an earlier version of this proposal, the SPD assumed the proposal would have no fiscal impact on their organization.

Officials from the **Department of Corrections (DOC)** did not respond to our request for a statement of fiscal impact. However, in response to an earlier version of this proposal, the DOC stated they cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

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 (FY 04 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 (FY 03 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 DOC. 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, it is assumed the impact would be less than \$100,000 per year for the DOC.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE FUND			
<u>Cost - Department of Corrections</u>			
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>
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>

<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

DESCRIPTION

This proposal creates several restrictions regarding the sale of compounds containing ephedrine- or pseudoephedrine-containing products. The purchase of products containing only ephedrine, pseudoephedrine, or phenylpropanolamine is limited to six grams or combination drugs containing ephedrine, pseudoephedrine, or phenylpropanolamine totaling nine grams. Within the course of any 30 day period, no person is to sell, dispense or provide to the same individual, any number of packages containing a total amount greater than nine grams. The provisions limiting individuals from purchasing the specified amount in any 30-day period does not apply to liquid or liquid-filled gel caps.

Compounds containing these drugs may be sold only by pharmacies, must be sold behind the pharmacy counter, and can only be sold by a pharmacist or registered pharmacy technician. 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.

DESCRIPTION (continued)

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. The Department of Health and Senior Services shall also promulgate rules relating to the security and storage of Schedule V controlled substances.

Within 30 days of the enactment of this proposal, any business entity which sells ephedrine or pseudoephedrine products and which does not have a controlled substance registration, is to return the products to a manufacturer or distributor or transfer them to an authorized controlled substance registrant.

A violation of these provisions is a class A misdemeanor.

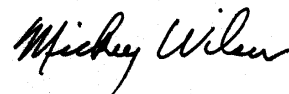
The proposal contains an emergency clause.

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 Health and Senior Services
Department of Public Safety -
 Director's Office
 Missouri State Highway Patrol
Office of Secretary of State

NOT RESPONDING: Department of Corrections, Office of Prosecution Services and Office of State Public Defender



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L.R. No. 1367-04
Bill No. SCS for HCS for HB 441
Page 6 of 6
April 18, 2005

Director
April 18, 2005