

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4578-02
Bill No.: HB 1742
Subject: Alcohol; Motor Vehicles; Licenses - Driver's
Type: Original
Date: February 17, 2010

Bill Summary: This proposal revises laws relating to driving while intoxicated.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(Expected to exceed \$483,899)	(Expected to exceed \$566,439)	(Expected to exceed \$580,430)
Total Estimated Net Effect on General Revenue Fund	(Expected to exceed \$483,899)	(Expected to exceed \$566,439)	(Expected to exceed \$580,430)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Highway Fund	(\$577,080)	(\$33,874)	(\$33,874)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$577,080)	(\$33,874)	(\$33,874)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	1 FTE	1 FTE	1 FTE
Total Estimated Net Effect on FTE	1 FTE	1 FTE	1 FTE

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Political Subdivisions	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services** and the **Department of Mental Health** state this proposed legislation would have no fiscal impact on their respective agencies.

Officials from the **Office of the Governor** anticipate there should be no added cost to the Governor's Office as a result of this proposal.

Officials from the **Department of Public Safety - Office of the Director** assume any costs to their agency associated with this proposal can be absorbed with existing resources.

According to officials from the **Office of Secretary of State (SOS)**, many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the proposal. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500.

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 **Department of Public Safety - Missouri State Highway Patrol (MHP)** provided the following assumptions regarding this proposed legislation:

The Traffic Division states that entry of data into the Driving While Intoxicated System (DWITS) is normally accomplished through direct entry into the system through a secure Internet connection. There would be no fiscal impact to the state with law enforcement agencies using this method. However, extractions of data into the DWITS from law enforcement agency Records Management Systems (RMS) can be established. The MHP DWITS consultant indicated the cost for MHP to establish one extraction program from a single RMS could cost as much as \$13,000. Approximately 37 commercial vendors operate records management systems statewide along with several local systems not operated by a commercial vendor. The commercial vendors represent approximately 271 agencies. It is possible a single extract program for a specific vendor's RMS could be written that would work with all agencies using that vendor's RMS; however, there may be additional programming that would have to take place with some or all of a vendor's customers. The cost to test each participating vendor could be as

ASSUMPTION (continued)

much as \$13,000. If all 37 vendors choose to participate, the cost will be approximately \$481,000 (\$13,000 x 37 RMS). MHP assumes that everyone will choose to participate. It may be possible to use federal funds through the Missouri Department of Transportation's Highway Safety Division to fund these projects. However, for purposes of this fiscal note, MHP assumes costs would be from the Highway Fund.

The Information Systems Division states that new reports would be required to gather the data received into DWITS and maintain regular accountability reports of alcohol-related arrest, charges, and dispositions. Development costs are estimated to be 220 hours at the current contract rate of \$82 per hour for a cost of \$18,040 (220 hours x \$82). In addition, new accountability reporting will be required per §577.005.5 as part of the reporting duties of the MHP to the Department of Public Safety and the Governor. These development costs are estimated to be 220 hours at the current contract rate of \$82 per hour for a cost of \$18,040 (220 hours x \$82). Because the current DWI system is Internet-based, a new WEB Infrastructure upgrade and server would be required to accommodate the additional users (i.e., all criminal justice agencies including law enforcement, prosecutors and courts). The cost of the upgrade and server is estimated to be \$40,000 (WEB Infrastructure upgrade \$30,000; server \$10,000).

Yearly software maintenance for ongoing support to the DWITS application for bug fixes and upgrades starting with year two is estimated to be 400 hours at the current contract rate of \$82 per hour for a cost of \$32,800 (400 hours x \$82).

Officials from the **Office of Administration - Information Technology Services Division (OA-ITSD)** assume the needed bandwidth is available to handle the traffic that may occur in the entry of data in the DWITS and from the courts accessing the data.

Officials from the MHP also provided the following assumptions regarding impact on local law enforcement, prosecutors, and courts:

This proposal will require law enforcement agencies to enter alcohol-related arrest information into DWITS and will require prosecutors to enter their actions into the system as well. Courts are required by §577.051 and §302.225 to forward dispositions related to intoxication-related offenses to the Department of Revenue, who is then required to forward that information to the Patrol for entry into the DWITS. Entry of disposition information by the courts is not needed or even possible.

Entry of data into the DWITS is normally accomplished through manual entry into the system through a secure Internet connection. There could be a fiscal impact to law enforcement and

ASSUMPTION (continued)

prosecutors if they choose to use this new method. The impact would include computer hardware and Internet access. It may also include additional personnel if the department is large and a substantial amount of data has to be entered.

Extractions of data into the DWITS from law enforcement agency records management systems (RMS) can be established. The MHP DWITS consultant indicated the cost for a local department to establish one extraction program from their RMS could cost as much as \$16,000.

Officials from the **Department of Corrections (DOC)** assume that changing the fact that DWI cases could be transferred from municipal to state court for prior offenders could cause a fiscal impact for the DOC. These offenders could now be supervised or incarcerated by the DOC. Additional treatment sources could also be needed to meet the growing number of referrals.

Currently, the DOC 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 proposed legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY09 average of \$16.04 per offender, per day, or an annual cost of \$5,855 per inmate) or through supervision provided by the Board of Probation and Parole (FY09 average of \$3.71 per offender, per day or an annual cost of \$1,354 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eighteen (18) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. It is estimated that potential costs will be in excess of \$100,000 per year.

Officials from the **Office of State Public Defender (SPD)** state that in FY 2009, the State Public Defender System provided representation in 3,677 state driving while intoxicated cases and 5,413 driving while revoked cases. If these numbers increase by just 10%, the SPD would require funds to contract out an additional 900 cases. At an average cost of \$375 per case, the additional costs would be \$337,500.

In addition, the new crimes of refusal to submit to chemical test of blood alcohol levels and driving with a BAC of greater than .15 would also be new Class A Misdemeanors. Statewide, SPD estimates at least 200 indigent persons stopped over a year's time would refuse the test or blow greater than .15. SPD assumes 200 new contract cases at a average cost of \$375 = \$75,000.

ASSUMPTION (continued)

Officials from the **Office of State Courts Administrator** state the proposed legislation makes significant revisions to the driving while intoxicated law.

The proposed legislation would make the following a class A misdemeanor:

- 1) Any driving while intoxicated offenses with blood alcohol content (BAC) of .15 or more
- 2) Any offense involving the refusal to submit to a chemical test

A municipal judge who is not licensed to practice law is required to complete a course which includes a review of state laws on intoxication-related offenses and jurisdictional issues related to such offenses as well as reporting requirements for the courts and required assessment for offenders under the substance abuse traffic offender program (SATOP).

In addition, each circuit and municipal court shall enter into DWITS any dispositions of intoxicated-related charges filed.

There may be an increase in the workload of the courts. Any significant increase will be reflected in future budget requests.

Officials from the **Department of Revenue (DOR)** provided the following assumptions regarding this proposal and stated their agency would need to do the following:

- Key all alcohol-related SIS convictions. DOR does not currently add SIS convictions to any driver record, except for commercial violations. The volume of SIS convictions received in 2009 was 6,056. This equates to 504 per month or the average of 24 per day. This will increase telephone calls because SIS convictions are not currently added to the driver record.
- Post all SIS convictions relating to a felony in the commission of a motor vehicle. There are currently no statistics available to determine how many of these types of violations DOR must key.
- This change will require programming and increase the number of individuals requiring an Ignition Interlock Device (IID) to be filed as either a reinstatement requirement or requirement to obtain an Limited Driving Privilege License (LDP). What is considered a prior alcohol-related offense has expanded and this will increase the number of IID required to be installed and reported to DOR.

ASSUMPTION (continued)

- Based on new LDP changes that increase the reasons prohibiting a driver from receiving an LDP, DOR will be denying more applications. This will require notification to the citizen. IN FY 2009, DOR denied 1,916 LDP applications. This will provision will generate more phone calls and correspondence.

Other changes include: A new conviction code for a DWI with a BAC level of .15% or more; revise the AIR to include the Class A misdemeanor; form changes; testing of MODL programs and new conviction code; web site changes; procedure changes; training of staff; and, unknown postage and forms cost.

Based on the above assumptions DOR will require the following FTE:

.25 Revenue Processing Tech to process additional convictions received. (53 convictions received per day)

.50 Revenue Processing Tech - One operator can process 100 calls per day. Given the addition of SIS convictions, DOR assumes .50 operator will be needed. If the call volume exceeds 100 calls per day, an additional FTE may be requested through appropriations.

.25 Revenue Processing Tech to process additional correspondence requests.

The Driver's License Bureau will also have costs related to internal implementation of law:

2 - Management Analysis Specialist II

Monthly salary @ \$3,854 x 2 x 3 months of testing = \$ 23,124

1 - Administrative Analyst

Monthly salary @ \$2,836 x 3 months of testing = \$8,508

2 - Revenue Band Manager

Monthly salary @ \$4,236 x 2 x 1 month of testing = \$8,472

2 - Management Analysis Specialist I for forms and internal procedures development

40 hours at \$20.13 = \$805 x 2 = \$1,610

1 - Administrative Analyst III for web page updates (10 hours at \$21.79 = \$218)

Oversight assumes the internal implementation costs can be absorbed with existing resources.

LMD:LR:OD (12/02)

ASSUMPTION (continued)

OA-ITSD (DOR) In response to a proposal similar to or identical proposals to this one in a previous session, the department planned to absorb the administrative costs to implement the proposal. Due to budget constraints, reduction of staff and the limitations within the department's driver license systems, changes cannot be made without significant impact to the department's resources and budget. Therefore, the IT portion of the fiscal impact is estimated with a level of effort valued at \$101,760 based on 3,840 FTE hours.

Oversight assumes OA-ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. **Oversight** assumes OA-ITSD (DOR) could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA-ITSD (DOR) could request funding through the appropriation process.

DOR assumes an unknown amount of reinstatement fees will be collected to be distributed as follows: 75% highway fund, 15% cities, and 10% counties

Oversight assumes reinstatements could be delayed as a result of this proposal but does not anticipate a significant change in the number of eventual reinstatements.

Officials from the Office of Prosecution Services (OPS) did not response to a request for fiscal note. However, in response to a similar proposal, OPS assumed the proposed legislation would have no measurable fiscal impact on their agency. The potential fiscal impact on county prosecuting attorneys will necessarily depend on the extent to which law enforcement agencies enforce provisions of the proposed legislation. If law enforcement agencies make arrests under these provisions, there may be a fiscal impact based on the additional cases that may be filed without providing any additional resources for the prosecuting attorney's offices.

Officials from the **City of Kansas City** assumed no fiscal impact to their city as a result of this proposed legislation.

Officials from the **City of Centralia** assume this proposal does not appear to have a fiscal impact on their jurisdiction.

Officials from the **Boone County Sheriff's Department** stated this proposal would have no fiscal impact on their department.

Officials from the **Jefferson City Police Department** no fiscal impact since their department already uses DWITS.

ASSUMPTION (continued)

Officials from the **Springfield Police Department** assume no negative fiscal impact to local law enforcement.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE			
<u>Cost - Department of Revenue (DOR)</u>			
Personal Services (1 FTE)	(\$21,784)	(\$26,926)	(\$27,733)
Fringe Benefits	(\$12,383)	(\$14,120)	(\$14,543)
Equipment and Expense	<u>(\$5,982)</u>	<u>(\$518)</u>	<u>(\$533)</u>
Total Cost - DOR	(\$40,149)	(\$41,564)	(\$42,809)
 <u>Cost - Office of State Public Defender -</u>			
Contract Counsel	(\$343,750)	(\$424,875)	(\$437,621)
 <u>Cost - Department of Corrections -</u>			
Incarceration and/or Probation costs	(Expected to exceed <u>\$100,000</u>)	(Expected to exceed <u>\$100,000</u>)	(Expected to exceed <u>\$100,000</u>)
 ESTIMATED NET EFFECT ON GENERAL REVENUE			
	<u>(Expected to exceed \$483,899)</u>	<u>(Expected to exceed \$566,439)</u>	<u>(Expected to exceed \$580,430)</u>
 ESTIMATED NET CHANGE ON GENERAL REVENUE FTE			
	1 FTE	1 FTE	1 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
HIGHWAY FUND			
<u>Cost - Department of Public Safety - Missouri State Highway Patrol (\$577.005)</u>			
Consultant Fees	(\$517,080)	\$0	\$0
WEB Infrastructure Upgrade	(\$30,000)	\$0	\$0
Contractual Support (Maintenance)	\$0	(\$33,874)	(\$33,874)
Equipment - Server	<u>(\$10,000)</u>	<u>\$0</u>	<u>\$0</u>
Total Cost - MHP	<u>(\$577,080)</u>	<u>(\$33,874)</u>	<u>(\$33,874)</u>
ESTIMATED NET EFFECT ON HIGHWAY FUND	<u>(\$577,080)</u>	<u>(\$33,874)</u>	<u>(\$33,874)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
	<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.

FISCAL DESCRIPTION

This proposed legislation changes the laws regarding driving while intoxicated. In its main provisions, the proposal:

- (1) Prohibits any person whose driving record has a prior alcohol-related enforcement contact or a driver's license denial from receiving a limited driving privilege license;
- (2) Prohibits any person who has had his or her driver's license suspended in the preceding five years for a driving while intoxicated offense and had a BAC of .15 or more from receiving a limited driving privilege license until the person's license has been suspended or revoked for 90 days followed by 275 days of restricted driving privilege;

FISCAL DESCRIPTION (continued)

- (3) Specifies that a person who operates a motor vehicle with a BAC of .15 or more who has no prior alcohol-related enforcement contacts during the preceding five years will have his or her driver's license revoked for 90 days followed by 275 days of restricted driving privilege;
- (4) Requires the course of instruction that all municipal judges must complete to include a review of state laws regarding intoxication-related offenses, jurisdictional issues related to those offenses, reporting requirements for courts, and required assessment for offenders under the Substance Abuse Traffic Offender Program (SATOP);
- (5) Requires law enforcement agencies, prosecutors, circuit courts, and municipal courts to enter all information for intoxication-related offenses into the State Highway Patrol's DWI Tracking System (DWITS). The patrol must report to the Department of Public Safety and the Governor any agency that fails to submit the required information. The Governor may withhold state funds to an agency that fails to comply with this provision;
- (6) Increases the penalty for a person guilty of a driving while intoxicated offense from a class B misdemeanor to a class A misdemeanor if the person had a BAC of .15 or more;
- (7) Specifies that any person who pleads guilty to driving while intoxicated or an excessive BAC offense and is granted a suspended imposition of sentence cannot later withdraw that plea;
- (8) Allows courts to search the DWITS or the certified driving record maintained by the Department of Revenue for prior alcohol-related driving offenses and requires any person who has been convicted of, pled guilty to, or has been found guilty of an intoxication-related traffic offense to have the record of the offense assessed against his or her driving record by the department director;
- (9) Specifies that a person will be guilty of a class A misdemeanor for refusing to submit to a chemical test; and
- (10) Requires any person who has had a driver's license suspended or revoked in violation of §577.041, RSMo, and whose driving record shows a prior alcohol-related enforcement contact or who has had a license to operate a motor vehicle suspended or revoked for driving while intoxicated when classified as a class A misdemeanor or for refusing to submit to a chemical test to have any motor vehicle operated by the person equipped with an ignition interlock device.

FISCAL DESCRIPTION (continued)

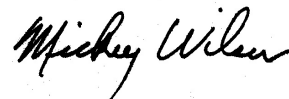
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of State Courts of Administrator
Department of Revenue
Department of Corrections
Department of Health and Senior Services
Department of Public Safety
 Office of the Director
 Missouri State Highway Patrol
Department of Mental Health
Office of the Governor
Office of State Public Defender
Office of Secretary of State
 Administrative Rules Division
Office of Administration
 Information Technology Services Division
Cities
 Kansas City
 Centralia
Local Law Enforcement
 Jefferson City Police Department
 Boone County Sheriff's Department
 Springfield Police Department

NOT RESPONDING

Office of Prosecution Services



Mickey Wilson, CPA
Director
February 17, 2010