

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4085-01
Bill No.: HB 1123
Subject: Crimes and Punishment; Transportation
Type: Original
Date: February 13, 2014

Bill Summary: This proposal prohibits the operation of a moving motor vehicle while wearing a head-mounted display and increases the penalty for the crime of texting while driving.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(Less than \$1,015,472)	(Less than \$1,055,775)	(Less than \$1,067,823)
Total Estimated Net Effect on General Revenue Fund	(Less than \$1,015,472)	(Less than \$1,055,775)	(Less than \$1,067,823)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	18 FTE	18 FTE	18 FTE
Total Estimated Net Effect on FTE	18 FTE	18 FTE	18 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 2015	FY 2016	FY 2017
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Transportation**, the **Department of Public Safety - Missouri Highway Patrol**, the **Office of the State Courts Administrator** and the **City of Columbia Police Department** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **Office of Prosecution Services** assume the proposal will have no measurable fiscal impact on their organization. The creation of a new crime creates additional responsibilities for county prosecutors which may in turn result in additional cost which are difficult to determine.

Officials from the **Department of Revenue (DOR)** assume this section of the proposal adds new point values for texting while driving in violation of section 304.820, first offense is 8 points, second/subsequent offenses are 12 points.

§ 302.302.1 (19)

Administrative Impact

The following procedures will need to be implemented for the changes in this proposal:

- Requires programming and testing of the Missouri Driver License System (MODL) for a new conviction code for texting while driving.
- Requires updates to procedures, correspondence letters, Department website and training of staff.
- OA-ITSD will be required to create three new conviction codes in the Missouri Driver License System.

ASSUMPTION (continued)

FY '15

Administrative Analyst I - 40 hours @ \$25 (1 ½) per hour =	\$1,000
Management Analyst Spec II - 40 hours @ \$23 per hour =	\$920
Update web page - Administrative Analyst III - 10 hrs @ \$23 =	\$230
Update forms - Management Analysis Spec I - 40 hrs @ \$21 =	\$840
Update procedures - Management Analysis Spec I - 40 hrs @ \$21 =	\$840
OA-ITSD Cost - 80 hrs @ 27.30 =	<u>\$2,184</u>
	Total = \$6,014

Revenue Impact

The increase in point values for texting while driving will cause an increase in driver license suspensions and revocations requiring a \$20 reinstatement fee. There are currently 159 convictions for texting while driving on record with the Department since the law's inception in 2009. The increase in reinstatement fees will be minimal.

Since it is unknown how many convictions for texting while driving will occur due to the increase in point values, **Oversight** will estimate a minimal increase in revenue of "Less than \$100,000".

§ 304.820.11

Officials from the **Department of Revenue (DOR)** assumes this section of the proposal requires a person who has pled guilty or been found guilty of violating this section for the first offense to have a 30-day suspension followed by a 60-day period of Restricted Driving Privilege (RDP) as ordered by the court. A second violation requires the court to order a one year revocation unless the second violation is within five years of the first violation in which case the period of revocation shall be five years. A third violation of this section is a felony and requires the court to issue an order revoking the driving privileges for a period of ten years. As a condition of reinstatement for the 1-year, 5-year, and 10-year revocation the person is required to take and pass both the written and skills tests.

- Requires programming and testing of MODL.
 - New felony conviction code.
 - New sub-system to add suspensions and revocations ordered by the court:
 - New action types.

ASSUMPTION (continued)

- Requires updates to procedures, correspondence letters, Department website and training of staff.
- Programming is required for the Missouri Driver License System in order to create a new subsystem. This will require new online screens, batch programs and restricted driving privilege evaluations.

FY `15

Administrative Analyst I - 840 hours @ \$25 (1 ½) per hour =	\$21,000
Management Analyst Spec II - 840 hours @ \$23 per hour =	\$19,320
Revenue Band Manager I - 600 hours @ \$25 per hour =	\$15,000
Update web page - Administrative Analyst III - 10 hrs @ \$23 =	\$230
Update forms - Management Analysis Spec I - 40 hrs @ \$21 =	\$840
Update procedures - Management Analysis Spec I - 40 hrs @ \$21 =	\$840
OA-ITSD - 1120 hours @ \$27.30 an hour =	<u>\$30,576</u>
Total =	\$87,806

Note: Due to the significant programming and testing requirements as well as procedure, form, and web site changes; training of staff; and providing forms and other information to outside agencies, the Department requests an implementation date of June 6, 2016.

In summary, DOR assumes a cost of \$93,820 (\$6,014 + \$87,806) in FY 2015 to provide for the implementation of the changes in this proposal.

Oversight assumes DOR is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb some of the costs related to this proposal. Oversight will assume a cost to the General Revenue Fund of less than DOR's estimate for FY `15.

Officials from the **Department of Corrections** state penalty provisions (the component of the bill to have potential fiscal impact for DOC) is for up to a class D felony. 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.

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 of direct offender costs either through incarceration (FY `13 average of \$18.014 per offender, per day, or an annual cost of \$6,575 per inmate) or through supervision provided by the Board of Probation and Parole (FY `13 average of \$5.07 per offender, per day or an annual cost of \$1,851 per offender.)

The following factors contribute to DOC's minimal assumption:

- DOC assumes the narrow scope of the crime will not encompass a large number of offenders.
- The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence.
- The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Office of the State Public Defender (SPD)** assume this proposal essentially would treat texting while driving the same as DWIs, except that texting couldn't be enhanced beyond a D felony.

Texting is more prevalent in our society than driving while intoxicated, but this is a conservative analysis and assume it is the same. Thus, for purposes of this fiscal note, the SPD will handle the same number of texting while intoxicated cases as DWI cases are handled.

In FY 2013, looking at charge codes 577.010, 577.012 and 577.021, the SPD handled 3,032 DWI cases. Of those 3,032 cases, 1,170 were felonies and 1,862 were misdemeanors.

ASSUMPTION (continued)

Utilizing the preliminary case weights from the ABA-sponsored 2013 Missouri Public Defender Workload Study, as set forth in our FY 2015 Budget Request, including an additional 12.8% travel and in-court hours as reflected in that Budget Request, along with the Budget Request's use of 2,080 attorney hours available per year:

- 1,170 D felony texting while driving cases would require 14 attorneys: $((1,170 \text{ cases} \times 22 \text{ hours per case}) + 12.8\% \text{ travel \& in-court hours}) / 2,080 \text{ hours attorney hours available per year}$.
- 1,862 misdemeanor texting while driving cases would require 10 attorneys: $((1,862 \text{ cases} \times 10 \text{ hours per case}) + 12.8\% \text{ travel \& in-court hours}) / 2,080 \text{ hours attorney hours available per year}$.

Currently SPD does not provide representation in texting while driving cases since they are infractions.

Therefore, it is estimated that this change as to texting while driving would require 24 additional attorneys. This bill currently impacts only those persons less than 21 years of age. If just $\frac{1}{4}$ of the offenses were charged to persons less than 21 years of age, the result would be a need for 6 attorneys and 12 adequate support staff.

Oversight assumes SPD is provided with core funding to handle a certain amount of activity each year. Oversight assumes the SPD could absorb some of the costs related to this proposal. Oversight will use the SPD's lower cost estimate of an adding an additional 6 attorney and 12 support staff FTEs.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
GENERAL REVENUE			
<u>Revenue - DOR</u>	Less than	Less than	Less than
§ 302.302.1(19) - Reinstatement Fees	\$100,000	\$100,000	\$100,000
<u>Cost - DOR</u>	(Less than	\$0	\$0
Administrative Changes	\$93,820)		
<u>Cost - SPD</u>			
Personal Service	(\$522,600)	(\$633,391)	(\$639,725)
Fringe Benefits	(\$266,552)	(\$323,061)	(\$326,292)
Expense and Equipment	<u>(\$132,500)</u>	<u>(\$99,323)</u>	<u>(\$101,806)</u>
<u>Total Cost - SPD</u>	<u>(\$921,652)</u>	<u>(\$1,055,775)</u>	<u>(\$1,067,823)</u>
FTE Change - SPD	18 FTE	18 FTE	18 FTE
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(Less than \$1,015,472)</u>	<u>(Less than \$1,055,775)</u>	<u>(Less than \$1,067,823)</u>
Estimated Net FTE Change for the General Revenue Fund	18 FTE	18 FTE	18 FTE
 <u>FISCAL IMPACT - Local Government</u>	 FY 2015 (10 Mo.)	 FY 2016	 FY 2017
	<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.

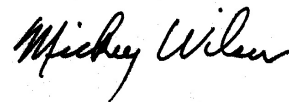
FISCAL DESCRIPTION

Currently, an individual 21 years of age or younger and any individual operating a commercial motor vehicle are prohibited from sending, reading, or writing a text message or electronic message from a hands-held electronic wireless communications device while operating a moving motor vehicle on any highway in this state. A violation of this provision is an infraction and is deemed a moving violation for the purposes of point assessment. This bill increases the penalty for texting while driving and prohibits a person from wearing a head-mounted optic display while operating a motor vehicle and modifies any violations of this. For a first offense of texting while driving or wearing a head-mounted optic display, the offender is guilty of a class B misdemeanor and his or her driving privilege will be suspended for 30 days followed by a 60-day period of restricted driving privilege. For a second offense, the offender is guilty of a class A misdemeanor and imprisoned for a minimum of five days. As a condition of probation or parole, he or she must perform 240 hours of community service. The offender's driving privilege will be revoked for one year unless the second offense is within five years of the first. If the second offense is within five years of the first offense, the revocation of the offender's driving privilege will be five years. For a third or subsequent offense, the offender is guilty of a class D felony and imprisoned for a minimum of 10 days. As a condition of probation or parole, he or she must perform 480 hours of community service. The offender's driving privilege will be revoked for 10 years, and the offender will be required to pass both the written and driving portions of the driver's examination in order to have his or her driving privilege reinstated. Eight points will be assessed against a driver for a first offense of texting while driving and 12 points will be assessed for the second and each subsequent offense.

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 Revenue
Department of Public Safety
Department of Transportation
Office of the State Courts Administrator
Office of the State Public Defender
Office of Prosecution Services
Department of Corrections
City of Columbia Police Department



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