



## Fiscal Estimate Narratives

DOT 10/6/2009

LRB Number	09-2979/3	Introduction Number	SB-303	Estimate Type	Original
<b>Description</b> Requesting a person who operates a vehicle that is involved in an accident that causes death or injury to submit to a test for intoxication					

### Assumptions Used in Arriving at Fiscal Estimate

State law [s.346.71(2)] requires all fatally injured drivers to be tested for the presence of alcohol or other drugs. In addition, Federal law requires drivers of commercial motor vehicles who survive a fatal crash to be tested for the presence of alcohol or other drugs, with the test results to be kept on file by their employer. The State's Implied Consent law [s.343.305] gives law enforcement officers discretion to request a driver submit to a chemical test if there is probable cause to believe the driver was operating while impaired OR if the driver was involved in a crash resulting in a fatality or great bodily harm and alcohol or other drugs are present at the crash scene.

SB-303 would expand the Implied Consent law in two ways:

- 1) Any driver involved in an injury crash (regardless of the severity of the injury) may be requested to submit to a chemical test if the officer detects the presence of alcohol or another drug (regardless of probable cause to believe the driver was operating while impaired)
- 2) Any driver involved in a crash resulting in death or great bodily harm may be requested to submit to a chemical test if the officer reasonably believes the driver violated any state or local traffic law

SB-303 would also amend the "Informing the Accused" form, which is read to a driver by an officer when requesting a breath, blood or urine sample for chemical testing.

SB-303 would broaden discretion of law enforcement to request chemical tests to more completely identify drivers in violation of impaired driving or other alcohol-related traffic laws. These include not only drivers at/above the 0.08 percent prohibited alcohol concentration (AC) limit for 1st thru 3rd offense OWI, but also drivers subject to lower alcohol limits, such as 0.00 AC for drivers under age 21 and drivers of commercial motor vehicles, and 0.02 AC for drivers with 3 or more prior OWI convictions, as well as drivers with any detectable amount of a controlled substance.

Based on 2006-2008 data, on average, about 49,000 surviving drivers are involved each year in injury crashes that do not result in a fatality or serious injury. Under SB-303, each of these 49,000 drivers would be subject to a request for a chemical test IF an officer detects the presence of alcohol or other drug at the crash scene. An unknown number of these drivers already qualify for a chemical test request based on current Implied Consent law (i.e. the officer had probable cause to believe the driver was impaired).

Based on 2006-2008 data, on average, about 5,200 surviving drivers are involved each year in fatal or serious injury crashes. Under SB-303, each of these 5,200 drivers would be subject to a request for a chemical test IF an officer had reason to believe they violated any traffic law. Based on 2004-2007 data, 44% of drivers who survived fatal crashes were tested; an unknown number of drivers involved in serious injury crashes were tested. An unknown proportion of these drivers already qualify for a chemical test request based on current Implied Consent law (i.e. the officer had probable cause OR the presence of alcohol or another drug was detected at the crash scene).

The bill amends the "Informing the Accused" form which would have to be re-printed in quantity and distributed to all law enforcement agencies. This form also resides in the electronic software used by many Wisconsin law enforcement agencies ("Badger TraCS") for crash reporting, so the software package would have to be updated by the Division of Motor Vehicles and distributed to all agencies currently using the software.

### Long-Range Fiscal Implications

Indeterminate due to the uncertain number of drivers who would meet the criteria for a chemical test being

requested and the uncertain degree to which law enforcement officer would actually exercise their increased discretion to request a chemical test.

Increased costs would include:

1) Cost to state/local law enforcement to acquire breath/blood samples for chemical testing from an unknown increased number of drivers who are not currently tested

2) Cost to the Wisconsin State Lab of Hygiene to process additional blood samples

3) Cost to local prosecutors (county and municipal), the State Public Defenders Office, and county/municipal courts to adjudicate the increased number of drivers whose positive AC test results would suggest violation of various alcohol-related traffic offenses, ranging from OWI to underage "Not-a-Drop" operation of a motor vehicle

4) Cost to DMV to process driver license sanctions for an increase in the number of alcohol-related traffic offenses, as well as an increase in Implied Consent chemical test refusals

5) Cost to DMV to revise/print/distribute the "Informing the Accused" form and to update the form within the Badger TraCS software

6) Cost to Dept of Corrections and county sheriff department to incarcerate an increased number of criminal OWI offenders

Increased revenues (e.g. forfeitures/fines, related court costs, penalty assessments, jail surcharges, Driver Improvement surcharges) are indeterminate.

## Fiscal Estimate Worksheet - 2009 Session

Detailed Estimate of Annual Fiscal Effect

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> 09-2979/3		<b>Introduction Number</b> SB-303	
<b>Description</b> Requesting a person who operates a vehicle that is involved in an accident that causes death or injury to submit to a test for intoxication			
<b>I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):</b>			
<b>II. Annualized Costs:</b>		<b>Annualized Fiscal Impact on funds from:</b>	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
State Operations - Salaries and Fringes	\$		\$
(FTE Position Changes)			
State Operations - Other Costs			
Local Assistance			
Aids to Individuals or Organizations			
<b>TOTAL State Costs by Category</b>	<b>\$</b>		<b>\$</b>
<b>B. State Costs by Source of Funds</b>			
GPR			
FED			
PRO/PRS			
SEG/SEG-S			
<b>III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</b>			
	Increased Rev		Decreased Rev
GPR Taxes	\$		\$
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
<b>TOTAL State Revenues</b>	<b>\$</b>		<b>\$</b>
<b>NET ANNUALIZED FISCAL IMPACT</b>			
	State		Local
NET CHANGE IN COSTS	\$		\$
NET CHANGE IN REVENUE	\$		\$
<b>Agency/Prepared By</b>		<b>Authorized Signature</b>	<b>Date</b>
DOT/ Dennis Hughes (608) 267-9075		Julie Johnson (608) 267-3703	10/6/2009