

LRB or Bill No./Adm. Rule No.  
AB 221 LRB-2141/2

Amendment No. if Applicable

**FISCAL ESTIMATE**

DOA-2048 N(R10/98)

- ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

**Subject**  
Relating to Operating a Motor Vehicle While Intoxicated

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget  Yes  No

- Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Decrease Costs

Local:  No local government costs

1.  Increase Costs  
 Permissive       Mandatory  
2.  Decrease Costs  
 Permissive       Mandatory

3.  Increase Revenues  
 Permissive       Mandatory  
4.  Decrease Revenues  
 Permissive       Mandatory

5. Types of Local Governmental Units Affected:

- Towns       Villages       Cities  
 Counties       Others \_\_\_\_\_  
 School Districts       WTCS Districts

**Fund Sources Affected**

- GPR     FED     PRO     PRS     SEG     SEG-S

**Affected Ch. 20 Appropriations**

20.410 (1)(a)(e)

**Assumptions Used in Arriving at Fiscal Estimate**

This bill revises the penalty structure for persons convicted of OWI. The potential penalties depend on the number of prior convictions and the offender's blood alcohol concentration (BAC). This fiscal estimate uses data provided by the Department of Transportation on the number of persons convicted of OWI in calendar year 1997 and assumes it is representative of future statistics. It does not include OWI offenders convicted of homicide or great bodily harm or those cases where the BAC is not known or a person refused the test.

**Second Conviction**

Current penalty is 5 days-6 months

**BAC .10-.14**

Penalty increases to 30 days-6 months.

This affects 563 offenders and it is assumed that they will serve an average of 10 additional days each in jail for a total of 5,630 days of jail incarceration.

**BAC .15-.19**

Penalty increases to 60 days-12 months

This affects 1,035 offenders and it is assumed that they will serve an average of 30 additional days in jail for a total of 31,050 days of jail incarceration.

**Long-Range Fiscal Implications**

Agency/Prepared by: (Name & Phone No.)  
Department of Corrections

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Robert Margolies/266-2931  
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Date  
4/20/99

**BAC .20-.24**

Penalty increases to 90 days-18 months

This affects 748 offenders and it is assumed that 90% (673) will still be sentenced to jail for an average of 45 additional days which totals 30,285 days of jail incarceration. It is also assumed that 10% (75) of the offenders will be sentenced to serve at least one year in a state prison and three months of community supervision for an increase of 75 in the prison population and 19 on supervision. This increase in the prison population will result in fewer offenders being sentenced to the county jail. Assuming the average length of stay is presently 45 days, there will be a decrease in jail days of 3,375 (75 x 45), thus resulting in a net increase of 26,910 days (30,285-3375) from this specific provision.

**BAC .25 or above**

Penalty increases to 120 days-2 years

This affects 359 offenders and it is assumed that 80% (287) will be sentenced to jail for an average of 60 additional days which totals 17,220 days of jail incarceration. It is also assumed that 20% (72) of the offenders will be sentenced to serve at least one year in a state prison and 6 months of community supervision for an increase of 72 in the prison population and 36 on supervision. This increase in the prison population will result in fewer offenders being sentenced to the county jail. Assuming the average length of stay is presently 60 days, there will be a decrease in jail days of 4,320 (72 x 60), thus resulting in a net increase of 12,900 days (17,220-4,320) from this specific provision.

**Third Conviction**

Current penalty is 30 days-1 year

**BAC .10- .14**

Penalty increases to 60 days-1 year

This affects 321 offenders and it is assumed they will serve an average of 15 additional days in jail for a total of 4,815 days of jail incarceration.

**BAC .15-.19**

Penalty increases to 120 days-2 years

This affects 641 offenders and it is assumed that 80% (513) will be sentenced to jail for an average of 60 additional days which totals 30,780 days of jail incarceration. It is also assumed that 20% (128) of the offenders will be sentenced to serve at least one year in a state prison and 6 months of community supervision for an increase of 128 in the prison population and 64 on supervision. The increase in the prison population will result in fewer offenders being sentenced to the county jail. Assuming the average length of stay is presently 60 days, there will be a decrease in jail days of 7,680 (128 x 60), thus resulting in a net increase of 23,100 days (30,780-7,680) from this provision.

**BAC .20-.24**

Penalty increases to 180 days-3 years

This affects 596 offenders and it is assumed that 70% (417) will be sentenced to jail for an average of 90 additional days which totals 37,530 days of jail incarceration. It is also assumed that 30% (179) of the offenders will be sentenced to serve at least one year in a state prison and 6 months of community supervision for an increase of 179 in the prison population and 90 on supervision. The increase in the prison population will result in fewer offenders being sentenced to the county jail. Assuming the average length of stay is presently 90 days, there will be a decrease in jail days of 16,110 (179 x 90), thus resulting in a net increase of 21,420 days (37,530-16,110) from this provision.

**BAC .25 or above**

Penalty increases to 240 days-4 years

This affects 331 offenders and it is assumed that 50% (166) will be sentenced to jail for an average of 120 additional days which totals 19,920 days of jail incarceration. It is also assumed that 50% (165) of the offenders will be sentenced to serve at least one year in a state prison and 6 months on community supervision for an increase of 165 in the prison population and 83 on supervision. The increase in the prison population will result in fewer offenders being sentenced to

to serve at least one year in a state prison and 6 months on community supervision for an increase of 165 in the prison population and 83 on supervision. The increase in the prison population will result in fewer offenders being sentenced to the county jail. Assuming the average length of stay is presently 120 days, there will be a decrease in jail days of 19,800 (165 x 120), thus resulting in a net increase of 120 days (19,920-19,800) from this provision.

### **Fourth Conviction**

Current penalty is 60 days-1 year.

#### **BAC .10- .14**

Penalty increases to 120 days-1 year.

This affects 88 offenders and it is assumed that they will serve an average of 30 additional days in jail for a total of 2,640 days of jail incarceration.

#### **BAC .15-19**

Penalty increases to 240 days-2 years

This affects 189 offenders and it is assumed that 60% (113) will be sentenced to jail for an average of 90 additional days which totals 10,170 days of jail incarceration. It is also assumed that 40% (76) of the offenders will be sentenced to serve at least one year in a state prison and 6 months on community supervision for an increase of 76 in the prison population and 38 on supervision. The increase in the prison population will result in fewer offenders being sentenced to the county jail. Assuming the average length of stay is presently 150 days, there will be a decrease in jail days of 11,400 (76 x 150), thus resulting in a net decrease of 1,230 days(10,170-11,400) from this provision.

#### **BAC .2-.249**

Penalty increases to 360 days-3 years

This affects 218 offenders and it is assumed that 25% (55) will be sentenced to jail for an average of 200 additional days which totals 11,000 days of jail incarceration. It is also assumed that 75% (163) of the offenders will be sentenced to serve at least one year in a state prison and 6 months on community supervision for an increase of 163 in the prison population and 82 on supervision. The increase in the prison population will result in fewer offenders being sentenced to the county jail. Assuming the average length of stay is presently 160 days, there will be a decrease in jail days of 26,080 (163 x 160), thus resulting in a net decrease of 15,080 days (26,080-11,000) from this provision.

#### **BAC .25 or above**

Penalty increases to 480 days-4 years

This affects 152 offenders and it is assumed that 100% of them will be sentenced to serve an average of 1.5 years in a state prison and 1 year on community supervision resulting in an increase in the prison population of 228 and 228 on supervision. The increase in the prison population will result in fewer offenders being sentenced to the county jail. Assuming the average length of stay is presently 200 days, there will be a decrease in jail days of 30,400 (152 x 200).

### **Fifth Conviction**

Current penalty is 6 months-5 years

#### **BAC .10- .14**

No change

#### **BAC .15-19**

Penalty increases to 1year-10 years

This affects 87 offenders and it is assumed that 20% (17) will be sentenced to jail for an average of 120 additional days which totals 1,479 days of jail incarceration. It is also assumed that 80% (70) of the offenders will be sentenced to serve 1.5 years in a state prison. Assuming a length of stay of 1 year under current law, this will result in 6 additional months in prison and a population increase of 35. Assuming a current length of stay of approximately 200 days for offenders sentenced to jail, there will be a decrease in jail days of 12,600 (70 x 180), thus resulting in a net decrease of 11,121 days (12,600-1,479) from this provision.

#### BAC .20-.24

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Penalty increases to 1.5 years-15 years

This affects 90 offenders who we assume are sentenced to a state prison for one year under current law. It is estimated that this revised penalty will result in an average increase of 1 additional year in prison for a population increase of 90.

#### BAC .25 or above

Penalty increases to 2-20 years

This affects 75 offenders who we assume are sentenced to a state prison for one year under current law. It is estimated that this revised penalty will result in an average increase of 2 additional years in prison for a population increase of 150.

### Net Population Increases and Costs

It is estimated that the aforementioned population increases will result in an increase of **1,361** in the state prison population and **70,754** days of additional jail incarceration.

#### Jails

If it is assumed that the average cost to house a person in a county jail is \$50/day, there will be an annual cost to counties of \$3,537,700 from this legislation

#### Prisons

Since our prisons are presently over capacity, one option to house a population increase of 1,361 would be the construction of a new 1,500 bed correctional institution. Construction costs are estimated at \$86,000,000. The funding for construction projects is usually obtained through general obligation bonding. Repayment of bonds would be spread over a period of 20 years and the loan repayment cost would be greater than the construction cost. Annual operating costs are estimated at \$25,649,900 and 490 staff would be required. One-time costs are \$1,930,300.

A second option would be the transfer of 1,361 additional inmates to out-of-state prisons. Assuming a daily rate of \$45, the annual cost of this option is estimated at \$22,354,400 and no construction costs.

#### Community Supervision

Based on the previously stated assumptions, it is estimated that the population on community supervision will increase by **640**. This will require 13 staff at an annual cost of \$593,200 and one-time expenditures of \$124,100.

**FISCAL ESTIMATE WORKSHEET**

1999 Session

Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R10/98)

ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

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Amendment No.

**Subject**  
Relating to Operating a Motor Vehicle While Intoxicated

**I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**  
\$2,054,400

<b>II. Annualized Costs:</b>	<b>Annualized Fiscal impact on State funds from:</b>	
	<b>Increased Costs</b>	<b>Decreased Costs</b>
<b>A. State Costs by Category</b>		
State Operations - Salaries and Fringes	\$18,256,000	\$ -
(FTE Position Changes)	( 503 FTE)	(- FTE)
State Operations - Other Costs	7,987,100	-
Local Assistance		-
Aids to Individuals or Organizations		-
<b>TOTAL State Costs by Category</b>	<b>\$26,243,100</b>	<b>\$ -</b>
<b>B. State Costs by Source of Funds</b>	<b>Increased Costs</b>	<b>Decreased Costs</b>
GPR	\$26,243,100	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
<b>State Revenues</b> Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	<b>Increased Rev.</b>	<b>Decreased Rev.</b>
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
<b>TOTAL State Revenues</b>	<b>\$</b>	<b>\$ -</b>

**NET ANNUALIZED FISCAL IMPACT**  
STATE

LOCAL

NET CHANGE IN COSTS      \$22,947,600--\$26,243,100      \$3,537,700

NET CHANGE IN REVENUES      \$      \$

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Date  
4/20/99