

Fiscal Estimate - 2009 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 09-0624/2	Introduction Number AB-0181	
Description Operating a motor vehicle without a valid driver's license or after suspension or revocation of an operating privilege and providing penalties		
Fiscal Effect		
State: <input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
Local: <input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
Fund Sources Affected Affected Ch. 20 Appropriations <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS		
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Fiscal Estimate Narratives

SPD 4/10/2009

LRB Number	09-0624/2	Introduction Number	AB-0181	Estimate Type	Original
Description Operating a motor vehicle without a valid driver's license or after suspension or revocation of an operating privilege and providing penalties					

Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) is statutorily authorized and required to appoint attorneys to represent indigent defendants in criminal proceedings. The SPD plays a major role in ensuring that the Wisconsin justice system complies with the right to counsel provided by both the state and federal constitutions. Any legislation has the potential to increase SPD costs if it creates a new criminal offense, expands the definition of an existing criminal offense, or increases the penalties for an existing offense.

This bill has a number of provisions regarding the consequences for unlicensed drivers who are adjudicated for operating vehicles illegally. A range of criminal penalties and administrative consequence (revocation and suspension of driving privileges) are specified for different fact situations. The three aspects of the bill that would be the most likely to affect the SPD are as follows.

1. New or expanded criminal penalties
2. Situations no longer requiring revocation of driving privileges
3. Situations that would require revocation of driving privileges

1. New or expanded penalties

This bill would expand the circumstances under which criminal offense may be charged when an unlicensed driver causes death or great bodily harm. The additional cases that could be charged would be classified as felony offenses. In fiscal year 2008, the SPD's average cost per felony was \$544.58. The SPD does not have data available to estimate the number of additional charges. However, it is likely that in some cases, including any cases in which strong evidence exists of intoxication or reckless driving, a felony case would be charged under current law.

2. Situations no longer requiring revocation of driving privileges

The bill would remove the mandatory revocation of driving privileges that presently applies following a fourth offense of operating after revocation (OAR) and similar offense, unless. The SPD does not anticipate any increase in its caseload, expenditures, or revenues as a result of this proposal.

This aspect of the bill would result in fewer cases of 5th-offense OAR, which in turn would result in a savings of \$217.54 per case, calculated on the basis of the SPD's average cost per case in fiscal year 2008. The SPD does not have data available to determine the number of cases by which the SPD's misdemeanor caseload would be reduced. It is common for persons convicted of OAR 4th to have multiple barriers to reinstating their operating privileges. Although the changes proposed in the bill would eliminate the mandatory revocation under current law, the bill would not affect revocations imposed as a result of other convictions (for example, for operating while intoxicated). The Department of Transportation may be able to estimate the impact that this bill would have on the number of misdemeanor traffic cases.

The biennial budget bill contains a provision that would make the offense of OAR a non-criminal offense unless the underlying revocation stems from an alcohol-related or drug-related violation. If this provision in the budget bill becomes law, the SPD anticipates a decrease in misdemeanor traffic cases (which the SPD has estimated as part of the budget process). Thus, any decrease in criminal cases that might occur as a result of this bill would likely occur as part of the decrease attributable to the provision in the budget bill.

3. Situations that would require revocation of driving privileges

The bill would require revocation of driving privileges in some circumstances when it is not mandatory under current law. In these situations, some persons subject to revocation will likely be charged for OAR, 2nd or subsequent offense, which is a misdemeanor offense. This aspect of the bill would result in additional cases

of OAR, 2nd or subsequent offense, which in turn would result in an increased cost of \$217.54 per case, calculated on the basis of the SPD's average cost per case in fiscal year 2008.

The SPD does not have data available to estimate the number of additional OAR cases that would result from this aspect of the bill. Also, the changes proposed in the budget bill to the OAR penalty structure (discussed in section 2, above) could mitigate this increase in costs.

Counties are also subject to increased costs when a new crime is created. There are some defendants who, despite exceeding the SPD's statutory financial guidelines, are constitutionally eligible for appointment of counsel because it would be a substantial hardship for them to retain an attorney. The court is required to appoint counsel at county expense for these defendants. Therefore, counties could also see an increase in the costs for appointed counsel attributable to the expanded scope of felony offenses. Counties could also experience the effects described above in sections 2 & 3, attributable to changes in the circumstances in which revocation of driving privileges is mandatory. Counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing.

Long-Range Fiscal Implications