

### Fiscal Estimate - 2009 Session

Original       Updated       Corrected       Supplemental

<b>LRB Number</b> <b>09-2859/1</b>	<b>Introduction Number</b> <b>AB-0283</b>
<b>Description</b> Operating a vehicle while intoxicated, granting rule-making authority, making an appropriation, and providing a penalty	
<b>Fiscal Effect</b>	
<b>State:</b>	
<input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate	
<input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations	<input checked="" type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues
<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input type="checkbox"/> Decrease Costs	
<b>Local:</b>	
<input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate	
1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenue <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	
<b>Fund Sources Affected</b>	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	
<b>Affected Ch. 20 Appropriations</b>	
<b>Agency/Prepared By</b> DOJ/ Mark Rinehart (608) 264-9463	<b>Authorized Signature</b> Mark Rinehart (608) 264-9463
<b>Date</b> 6/1/2009	

## Fiscal Estimate Narratives

DOJ 6/1/2009

LRB Number	09-2859/1	Introduction Number	AB-0283	Estimate Type	Original
<b>Description</b> Operating a vehicle while intoxicated, granting rule-making authority, making an appropriation, and providing a penalty					

### Assumptions Used in Arriving at Fiscal Estimate

2009 Assembly Bill 283 makes several changes to existing law relating to drunk driving. The following changes will have an impact on the Department of Justice:

#### 1) Imposing Surcharges for 1st Offense OWI with .08-.099 BAC

Under current law, a person who commits their first OWI offense with a blood alcohol concentration between .08 and .099 is subject only to a forfeiture of not less than \$150 nor more than \$300. AB 283 subjects a person who commits their first OWI offense with a blood alcohol concentration between .08 and .99 to the several surcharges and fees paid by other OWI offenders, including the crime laboratories and drug law enforcement surcharge, and the penalty surcharge.

The crime laboratories and drug law enforcement surcharge is \$8 and is used to support the DNA databank, DNA evidence prosecution efforts, the crime laboratories, and drug law enforcement efforts. The penalty surcharge is generally assessed when a court imposes a fine or forfeiture for a violation of state law or local ordinance. The penalty surcharge is 26% of the fine or forfeiture. Penalty surcharge revenues are allocated to appropriations in a number of state agencies, including DOJ, to support specific programs. Approximately 65% of penalty surcharge dollars are allocated to DOJ programs.

According to DOT, in 2007, there were 950 cases of driver license revocations for 1st offense OWI with a BAC between .08 and .099. As a result, in 2007, \$7,600 (950 x \$8) in additional crime laboratories and drug law enforcement surcharge dollars could have been generated under AB 283. Also, a minimum of \$37,050 (950 x \$150 x 26%) in additional penalty surcharge dollars could have been generated and DOJ could have received an additional \$24,082 (\$37,050 x 65%) of penalty surcharge dollars for department programs in 2007 under AB 283.

#### 2) Making 4th Offense OWI a felony and making second or subsequent OWI-related offense resulting in injury to another person a felony.

Under AB 283, the penalty for a person who commits a fourth OWI-related offense within five years of a prior offense, and for a person who commits a second or subsequent OWI-related offense resulting in injury to another person, is increased to a felony.

According to DOT, in 2007, there were 276 convictions for fourth OWI offense within five years of a prior offense. DOT also reports that there were 119 convictions for second OWI offense causing injury and 46 convictions for third OWI offense causing injury in 2007.

While most felony prosecutions are handled by district attorneys, assistant attorneys general in the Department of Justice's Criminal Litigation Unit on occasion act as special prosecutors throughout Wisconsin at the request of district attorneys. In addition, the Department of Justice's Criminal Appeals Unit represents the State of Wisconsin in defending felony convictions when those convictions are challenged in state or federal court. Under Wisconsin law, this unit is charged with preparing briefs and presenting arguments in front of any state appellate or federal court hearing a challenge to a felony conviction.

Since AB 283 broadens the types of activities that can be prosecuted as felonies, enactment of the bill will result in an increased caseload for DOJ, particularly the Criminal Appeals Unit.

DOJ estimates that approximately one-third to one-half of the OWI-related convictions covered by AB 283 will end up being appealed. As a result, based on 2007 figures, DOJ's Criminal Appeals Unit caseload will increase by approximately 145-220 cases under AB 283. DOJ will need three Assistant Attorneys General to handle this increased caseload. Total salary, fringe, supplies, and equipment costs for three Assistant

Attorneys General is \$461,700 for the first year and \$436,800 for the second and subsequent years.

It should be noted, DOJ's crime lab currently performs the analysis of blood samples submitted by local law enforcement agencies relating to felony OWI violations. DOJ is currently able to process incoming blood samples within 2 days. If DOJ receives an additional 450 samples annually, it make take approximately 6-7 days to process incoming blood samples.

### **Long-Range Fiscal Implications**