

Fiscal Estimate - 2009 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 09-2859/1	Introduction Number AB-0283	
Description Operating a vehicle while intoxicated, granting rule-making authority, making an appropriation, and providing a penalty		
Fiscal Effect State: <input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input checked="" 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 checked="" type="checkbox"/> Increase Revenue 5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
Fund Sources Affected Affected Ch. 20 Appropriations <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEGS s. 20.395 (5) (hj) & s. 20.395 (5) (cq)		
Agency/Prepared By DOT/ Richard Kleist (608) 266-1449	Authorized Signature Julie Johnson (608) 267-3703	Date 6/2/2009

Fiscal Estimate Narratives

DOT 6/2/2009

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

Assumptions Used in Arriving at Fiscal Estimate

BILL SUMMARY

Ignition Interlock Device (IID), Immobilization, and Seizure Requirements

Under current law, if a person is convicted of a second offense of operating a motor vehicle with a prohibited alcohol concentration or under the influence of an intoxicant (OWI-related offense), a judge may immobilize the person's motor vehicles or require that the person's operating privilege be limited to operating vehicles equipped with an IID. If a person is convicted of a third or subsequent (OWI-related offense) within five years, a judge must limit the person to operating only vehicles equipped with an IID or order that the person's motor vehicles be immobilized or seized and sold at auction.

Current law requires the person to pay the cost of installing and monitoring the IID on every vehicle the person owns. If the judge determines this would cause a hardship on the person, the judge may require the IID be installed on some, but not all, of the person's vehicles.

This proposal makes it mandatory for the judge to order a person's operating privilege be restricted, for a minimum of one year, to operating only vehicles equipped with an IID if the person is convicted of a first OWI-related offense with a blood alcohol concentration of 0.15 or more or the person is convicted of a second OWI-related offense or if the person's operating privilege is revoked for any refusal to submit to a test for intoxication.

The bill requires the judge to order that every motor vehicle the person owns be equipped with an IID. The person is required to pay to the court a \$50 interlock surcharge of which the county shall retain \$40 of each surcharge and make payment of the remaining \$10 to the department. If the judge determines the person's income is at or below 150 percent of the nonfarm federal poverty line, they are required to pay only one-half of the IID installation cost and one-half the cost per day per vehicle toward maintaining the device. Persons whose income is above the stated poverty line are required to pay the full cost associated with the IID order. No occupational license can be issued to the person until the surcharge is paid and the ordered IID(s) are installed.

The bill subjects a person who fails to have an IID installed to the same penalties as a person who removes, disconnects, tampers with, or otherwise circumvents the operation of the IID and adds a provision for imprisonment for not more than six months and extends the period for which the IID is required by six months for each offense.

This proposal eliminates the court's option of ordering the person's vehicle to be immobilized or seized and sold at auction.

.02 Prohibited Alcohol Concentration

Current law defines a "prohibited alcohol concentration" as an alcohol concentration of 0.08 or more if the person has two or fewer prior OWI-related convictions, suspensions, or revocations. If the person has three or more prior OWI-related convictions, suspensions, or revocations, the prohibited alcohol concentration is defined as an alcohol concentration of more than 0.02.

This bill adds a definition of a prohibited alcohol concentration as an alcohol concentration of more than 0.02 if the person was ordered to have an IID installed or if the person has committed any OWI offense within the preceding two-year period.

.08 - .099 Loophole

Current law provides a person who commits their first OW offense and has a blood alcohol concentration between 0.08 and 0.099 at the time of the offense does not have to pay the penalty surcharges or court fees and does not have to complete an alcohol or other drug assessment program. Additionally, DOT must purge its records of a first offense OWI in this category after 10 years. All other records of OWI offenses are kept permanently.

This bill makes a person committing their first OWI offense and has a blood alcohol concentration between 0.08 and 0.099 liable for the surcharges or fees and they must complete an alcohol or other drug assessment program before their driver license can be reinstated. The bill also requires DOT to keep record of this offense permanently.

Tolling Revocation Period During Incarceration

Current law requires the time period used to count the number of OWI-related offenses be measured from the date of the refusal to submit to a prohibited alcohol concentration test or the date of the OWI-related violation that resulted in revocations or convictions.

This proposal requires the time period specified for counting the number of refusal or OWI-related offenses ("count-back" period) be tolled or should not include any period of time whenever or for as long as the person is imprisoned. The proposal also requires the person whose refusal or OWI-related violation-counting period is tolled to notify DOT they have been released from prison so the correct "count-back" period can be applied.

ASSUMPTIONS

Ignition Interlock Device (IID), Immobilization, and Seizure Requirements

This proposal would increase DMV workload for data entry of IID restrictions for all first offense OWI-related convictions with a blood alcohol concentration of 0.15 or more and all second and subsequent OWI-related offenses or if the person's operating privilege is revoked for any refusal to submit to a test for intoxication.

As the proposal requires a person ordered to have an IID installed to pay the interlock surcharge before any occupational license can be issued, the court ordering the installation will need to inform DOT if or when the surcharge has been paid.

The proposal would also require a recalculation of restriction ending dates and reissuing of driver licenses with IID restrictions extending that restriction date according to a court's order for persons convicted of tampering with a device.

This proposal would eliminate the need to add notations to driver's registration records relating to the immobilization or seizure of their vehicles.

As a condition of obtaining an occupational license, this proposal requires a person to provide proof of installation of an IID for each vehicle titled or registered in their name. It is possible many people may transfer titles to other persons to avoid the need to install IIDs in each vehicle titled or registered in their name.

.02 Prohibited Alcohol Concentration

This proposal would increase DMV workload for creating OWI-related revocations, issuance of occupational licenses and license reinstatements due to the increase in convictions as a result of the lower blood alcohol concentration levels.

.08 - .099 Loophole

Those persons convicted of operating a motor vehicle with a blood alcohol concentration between 0.08 and 0.099 would be required to complete an alcohol assessment, as is currently required of a person convicted of operating with a blood alcohol concentration of 0.10 or greater. As this proposal would require more drivers to submit to alcohol assessments, it would also increase the number of revocations of operating privileges DMV must generate for failure to complete the alcohol assessment.

Purge criteria for removal from department records of convictions for first offense OWI with a blood alcohol concentration between 0.08 and 0.099 must be changed, as this proposal would now require those

convictions to be stored on the record permanently.

Tolling Revocation Period During Incarceration

The proposal as written would result in little impact on DOT processes. Computer programming changes would be needed to add an area for the court to report ordered imprisonment upon the person's conviction. Programming of these changes could potentially delay programming of Commercial Driver License (CDL) system changes necessary for CDL compliance issues required by the federal government.

CONCLUSION

Ignition Interlock Device (IID), Immobilization, and Seizure Requirements:

In 2007, there were about 23,500 revocations for first offense OWI-related convictions (OWI, OII, PAC, GBH, NHI). Assuming 60 % of those convictions resulted from a person operating with a blood alcohol concentration of 0.15 or more, 17,363 offenders would be subject to an IID restriction under this proposal. In 2007, there were approximately 19,292 revocations for refusal to submit to a test for intoxication and second and subsequent OWI-related convictions (OWI, OII, PAC, NHI, GBH) each requiring an IID restriction under this proposal. This proposal would result in about an additional 32,450 IID restrictions. This increase would be minimally offset by a reduction in the number of notations added to driver's registration records relating to the immobilization or seizure of their vehicles.

The fiscal impact of data entry of these restrictions is .31 FTE (1 minute per transaction) or approximately \$11,600.

(0.31 TCR Senior = \$11,600 salary and fringe annually)

The fiscal impact of extending a restriction ending date and reissuing a driver license due to a conviction for tampering with an IID assuming 3% of all drivers requiring the device (32,450) violated would be .1 FTE (10 minutes per transaction) or approximately \$4,400. (0.1 TCR Advanced = \$4,400 salary and fringe annually)

The fiscal impact of possible title transfers to avoid the need to install IIDs in each vehicle titled or registered in the person's name is indeterminate. The number of these transfers is impossible to determine, therefore the cost of the FTE necessary for handling the transfers and the revenue generated by fees paid for the transaction cannot be determined.

Revenue received by the Department from the \$10 interlock surcharge would total \$366,550, assuming all persons required to install an IID paid the surcharge. Monies collected from this surcharge are to be appropriated to the Motor Vehicle Services Fund newly created in this proposal for "Ignition interlock device administration and enforcement".

.02 Prohibited Alcohol Concentration:

In 2007, 45,366 persons were convicted of offenses under s. 343.307 (1), which would make them eligible for the 0.02 prohibited alcohol concentration requirement. Assuming 15% of those persons violated the .02 requirements, an additional 6,800 new operating privilege withdrawals would result. The fiscal impact of these new withdrawals would be an additional 2.3 FTE or \$116,200 and \$5,426 for supplies with approximately \$328,060 in additional revenue from reinstatement and occupational license fees.

.08 - .099 Loophole:

In 2007, there were approximately 950 revocations for operating a motor vehicle with a blood alcohol concentration between 0.08 and 0.099 who would under this proposal now be required to complete an alcohol assessment. Assuming 40% of these people did not complete the required assessment (a percentage equal to first offense OWI convictions in 2007) and their operating privilege was subsequently revoked, an additional 380 revocations would be generated by DMV. Of these 380 revocations, approximately 50%, or 190 would be created manually. Additionally, an expected 50%, or 190 of the people revoked would regain compliance and subsequently reinstate their operating privilege.

The fiscal impact of generating these revocations is .04 FTE or \$1800 and \$500 for supplies and services. (0.04 TCR Advanced = \$1,800 salary and fringe annually)

One-time cost of approximately \$300 for updating driver license computer systems changing driver record purge criteria and to allow pending flags to be set requiring alcohol assessments to be completed for persons with blood alcohol concentrations of 0.08 through 0.099.

The expected revenue generated by reinstatements of an expected 50% of these additional revocations is \$11,400.

Tolling Revocation Period During Incarceration:

As the proposal is written, there should be no FTE or supply cost changes. The cost for computer programming changes needed to add an area for the court to report ordered imprisonment upon the person's conviction would be approximately \$57,240.

The fiscal impact on local government is an expected \$1,466,200 increase in revenues due to the \$40 received from the new interlock surcharge created for each person subject to an IID order made by the court and the expected increase in number of IIDs required.

Long-Range Fiscal Implications

See above

Fiscal Estimate Worksheet - 2009 Session

Detailed Estimate of Annual Fiscal Effect

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Description Operating a vehicle while intoxicated, granting rule-making authority, making an appropriation, and providing a penalty			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
The expected costs for computer programming changes necessary to recalculate restriction date changes, update purge criteria, make adjustments to cause alcohol assessments to be required, and changes needed to allow tolling of revocation periods are estimated to be approximately \$96,240.			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes	\$134,000		\$
(FTE Position Changes)	(2.8 FTE)		
State Operations - Other Costs	5,900		
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category	\$139,900		\$
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS			
SEG/SEG-S (s.20.395 (5) (cq))	139,900		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
	Increased Rev		Decreased Rev
GPR Taxes	\$		\$
GPR Earned			
FED			
PRO/PRS (s.20.395)	366,550		
SEG/SEG-S (s.20.395)	339,460		
TOTAL State Revenues	\$706,010		\$
NET ANNUALIZED FISCAL IMPACT			
	State		Local
NET CHANGE IN COSTS	\$139,900		\$
NET CHANGE IN REVENUE	\$706,010		\$1,466,200
Agency/Prepared By		Authorized Signature	
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		Date	
		6/2/2009	