

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0998-01
Bill No.: HB 406
Subject: Boats and Watercraft; Crimes and Punishment; Transportation
Type: Original
Date: February 14, 2007

Bill Summary: This proposal modifies the crimes involving operating a watercraft while under the influence.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(LESS THAN \$100,000)	(LESS THAN \$100,000)	(LESS THAN \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Public Defender** as well as the **Department of Public Safety - Director's Office** and the **Water Patrol** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Office of the State Courts Administrator (CTS)** state the proposed legislation would increase the jurisdiction of the Water Patrol to include any water of the state, rather than only the Mississippi River, Missouri River, or the lakes of this state. In addition, a person commits the crime of operating a vessel with excessive blood alcohol content (BAC) if such person operates a vessel with a BAC of .08 rather than .10.

Some cases may become protracted. Depending on the degree of enforcement, there could be a significant increase in the number of cases filed. However, CTS has no way of estimating that increase. Any significant increase would be reflected in future budget requests.

Officials from the **Department of Corrections (DOC)** state this proposal reduces the BAC for boating while intoxicated (BWI) from ten-hundredths to eight-hundredths of one percent or more by weight of alcohol in the offender's blood. Definitions of statute's lakes and main rivers are expanded to 'waters' of this state. There are currently no class D felonies for BWI in the DOC system and only 2 offenders sentenced for a third BWI offense.

Currently, the DOC cannot predict the number of new commitments which may result from the enhancement of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY06 average of \$39.43 per inmate, per day or an annual cost of \$14,394 per inmate) or through supervision provided by the Board of Probation and Parole (FY06 average of \$2.52 per offender, per day or an annual cost of \$920 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seven (7) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of these enhanced crimes, it is assumed the impact would be less than \$100,000 per year for the DOC.

The **Office of Prosecution Services** did not respond to our request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
GENERAL REVENUE FUND			
<u>Costs - Department of Corrections</u>			
Incarceration or Probation	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(LESS THAN <u>\$100,000</u>)	(LESS THAN <u>\$100,000</u>)	(LESS THAN <u>\$100,000</u>)
<u>FISCAL IMPACT - Local Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill changes the laws regarding watercraft regulations. In its main provisions, the bill:

- (1) Specifies that a person commits the crimes of negligent operation of a vessel, operating a vessel while intoxicated, involuntary manslaughter with a vessel, assault with a vessel in the second degree, and operating a vessel with excessive blood-alcohol content on any waters of this state. Currently, those crimes can only be committed on the Mississippi River, Missouri River, or any lake in this state;
- (2) Specifies that a person convicted of a second violation of the crime of operating a vessel with excessive blood-alcohol content within 10 years of a first offense will be guilty of a class A misdemeanor and placed on probation for a period of two years;

FISCAL DESCRIPTION (continued)

(3) Specifies that a person convicted of a third violation of the crime of operating a vessel with excessive blood-alcohol content within 20 years of two prior offenses will be guilty of a class D felony and placed on probation for a period of three years. The individual will be prohibited from operating a vessel for a period of five years from the date of the third conviction;

(4) Lowers the weight of alcohol necessary in a person's blood in order for there to be a presumption that the person is intoxicated from .1 of 1% to .08 of 1%;

(5) Defines "prior offender" as any person who has pled guilty to or been found guilty of one intoxication-related boating offense within five years of the intoxication-related boating offense for which the person is charged. A person proved to be a prior offender will be guilty of a class A misdemeanor and will not be eligible for probation or parole until he or she has served a minimum of five days' imprisonment;

(6) Defines "persistent offender" as a person who has pled guilty to or been found guilty of two or more intoxication-related boating offenses, involuntary manslaughter with a vessel, assault with a vessel in the second degree, or assault of a law enforcement officer in the second degree while in an intoxicated condition or under the influence of controlled substances operates a vehicle or motorboat to cause injury to the law enforcement officer. A person proved to be a persistent offender will be guilty of a class D felony and will not be eligible for probation or parole until he or she has served a minimum of 10 days' imprisonment;

(7) Defines "aggravated offender" as a person who has pled guilty to or been found guilty of three intoxication-related boating offenses or has pled guilty to or been found guilty of one of more intoxication-related boating offense and any of the following: involuntary manslaughter with a vessel, assault with a vessel in the second degree, or assault of a law enforcement officer in the second degree while in an intoxicated condition or under the influence of controlled substances operates a vehicle or motorboat to cause injury to the law enforcement officer. A person proved to be an aggravated offender will be guilty of a class C felony and will not be eligible for probation or parole until he or she has served a minimum of 60 days' imprisonment;

(8) Defines "chronic offender" as a person who has pled guilty to or been found guilty of four or more intoxication-related offenses; has pled guilty to or been found guilty of, on two or more separate occasions, any combination of the following: involuntary manslaughter with a vessel, assault with a vessel in the second degree, or assault of a law enforcement officer in the second degree while in an intoxicated condition or under the influence of controlled substances; or has pled guilty to or been found guilty of two or more intoxication-related offenses and any of the following: involuntary manslaughter with a vessel, assault with a vessel in the second degree, or

FISCAL DESCRIPTION (continued)

assault of a law enforcement officer in the second degree while in an intoxicated condition or under the influence of controlled substances operates a vehicle or motorboat to cause injury to the law enforcement officer. A person proved to be a chronic offender will be guilty of a class B felony and will not be eligible for probation or parole until he or she has served a minimum of two years' imprisonment; and

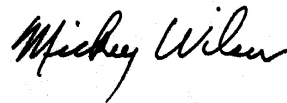
(9) Specifies that no prior, persistent, aggravated, or chronic offender will be given an imposition of sentence.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Public Safety
Office of the State Courts Administrator
Office of the State Public Defender
Department of Corrections

NOT RESPONDING: Office of Prosecution Services



Mickey Wilson, CPA
Director
February 14, 2007