



## Fiscal Estimate Narratives

DOT 1/30/2012

LRB Number	11-2144/2	Introduction Number	AB-0670	Estimate Type	Updated
<b>Description</b> Offenses related to operating a vehicle while intoxicated, releasing persons arrested for offenses related to operating a vehicle while intoxicated, granting rule-making authority, and providing a penalty					

### Assumptions Used in Arriving at Fiscal Estimate

#### BILL SUMMARY

##### Class C Misdemeanor

Under current law, a first offense of operating while intoxicated (OWI) is a civil violation, punishable by a forfeiture of \$150-300. This bill would make a first offense OWI a Class C misdemeanor, punishable by a \$500 fine and 30-day imprisonment.

##### Sobriety Checkpoints

Under current law, enforcement checkpoints are not permitted. This bill would require the Law Enforcement Standards Board to establish rules for a sobriety checkpoint program.

##### County Reimbursement for Jail Costs

Under current law, counties may seek reimbursement from persons sentenced or confined to a county jail for costs incurred in relation to the crime for which the persons are sentenced or confined. This bill would require counties to seek such reimbursement.

##### Intoxicated and Drugged Drivers Fund

Under current law, revenues generated from the wine and liquor tax are deposited into the general fund. This bill would deposit \$10,000,000 of those revenues into the intoxicated and drugged drivers fund, to pay costs incurred in relation to prosecuting first OWI-related offenses and providing treatment programs for offenders.

##### .02 Prohibited Alcohol Concentration

Under current law, no person may operate a motor vehicle with a prohibited alcohol concentration, which is set at 0.08 BAC (except drivers required to use an ignition interlock device, in which case it is 0.02 BAC). This bill would lower the prohibited alcohol concentration to 0.02 BAC for the two years following a first or second OWI-related offense.

##### Minimum Sentence Served Immediately

Under current law, a trial court may release a person who has been convicted of a crime from until the time of sentencing, unless the person was convicted of a 3rd or subsequent OWI-related offense. This bill would require that, upon conviction for any OWI-related offense, the minimum sentence must be served immediately.

##### Release From Police Custody After OWI-Related Arrest

Under current law, a person arrested for certain OWI-related offenses may not be released from police custody until 12 hours have elapsed from the time of the arrest unless a chemical test shows that the person has an alcohol concentration of less than 0.04 or they are being released to their attorney, spouse, relative, or other responsible adult (responsible party). This bill would allow a person to be released to a responsible party if the responsible party signs a form acknowledging that they accept legal responsibility for the actions of the arrested person for 12 hours after the time the person was arrested and that, if the arrested person is arrested for another OWI-related offense within in that period, the responsible party may be guilty of a Class C misdemeanor. In addition, the bill requires a law enforcement officer to seize or immobilize the vehicle

used in the incident that gave rise to the arrest for 12 hours, except that, if the vehicle is the only vehicle owned or leased by any member of the arrested person's household, the officer may release the vehicle to a member of the household.

#### THE FOLLOWING IMPACT THE DEPARTMENT DIRECTLY AND ARE ADDRESSED IN THE ASSUMPTION:

Class C Misdemeanor  
Sobriety Checkpoints  
.02 Prohibited Alcohol Concentration

#### ASSUMPTIONS

Class C Misdemeanor

A first offense OWI would be a Class C misdemeanor, punishable by a \$500 fine and 30-day imprisonment.

Sobriety Checkpoints

The cost difference between running a High Visibility Enforcement exercise, as the State Patrol currently participates in, and a full-blown Sobriety Checkpoint exercise is believed to be minimal, if any. Potentially there could be some nominal training costs incurred if State Patrol opted to engage in a lot of checkpoint exercises, but our training role would be as "students," not "trainers."

.02 Prohibited Alcohol Concentration

In 2010, 32,271 persons were convicted of offenses under s. 343.307 (1), which would make them eligible for the 0.02 prohibited alcohol concentration requirement. We've estimated that 65% of all OWI convictions each year are first offense (20,976), 20% are second (6,454), and 9% are 3rd offense (2,904). So, the 20,976 first offenders minus the 20% that will become second offenders under current law, leaves 14,522 first offenders who could become second offenders under the 0.02 law. Similarly, the 6,454 second offenders minus the 9% we estimate will become third offenders under current law, leaves 5,873 who could become third offenders under the 0.02 law. Added together, there are 20,395 first and second offenders who may become subsequent offenders under the proposed law. Assuming that 50% of the 20,395 will violate the 0.02 requirements, an additional 10,198 new repeat OWI offenders with operating privilege withdrawals would result. The fiscal impact of these new withdrawals would be an additional 3.4 FTE or \$171,855 salary and fringe benefits, and \$8,146 for supplies. The reinstatement fee for an OWI revocation is \$200 (we estimate 60% will reinstate) and the occupational license fee is \$50 (we estimate 25% will be eligible for an occupational license). This would generate approximately \$1,349,200 in additional revenue from reinstatement (\$1,223,800) and occupational license fees (\$125,400). Although revenues greatly exceed costs, these costs cannot be absorbed because the fees are not appropriated to DMV, but are merely deposited in the transportation fund.

The proposal would have an indeterminate fiscal impact on State Patrol operations depending on the size in the increase of OWI-related arrests that occur as a result of the lower prohibited alcohol concentration level.

The proposal would have an indeterminate fiscal impact on county governments. Increased staff and costs resulting from additional jail time resulting from the criminalization of all first offense OWI-related charges; requiring a person to be incarcerated for the mandatory minimum period of imprisonment; the implementation of sobriety checkpoints; and reducing the prohibited alcohol concentration allowed for persons with one or two prior OWI-related convictions cannot be determined at this time. Cities, towns, and villages would lose revenue resulting from first offense OWI convictions occurring in municipal courts.

Long-Range Fiscal Implications

See above.

## Fiscal Estimate Worksheet - 2011 Session

Detailed Estimate of Annual Fiscal Effect

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> 11-2144/2		<b>Introduction Number</b> AB-0670	
<b>Description</b> Offenses related to operating a vehicle while intoxicated, releasing persons arrested for offenses related to operating a vehicle while intoxicated, granting rule-making authority, and providing a penalty			
<b>I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):</b>			
<b>II. Annualized Costs:</b>		<b>Annualized Fiscal Impact on funds from:</b>	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
State Operations - Salaries and Fringes	\$171,855		\$
(FTE Position Changes)	(3.4 FTE)		
State Operations - Other Costs	8,146		
Local Assistance			
Aids to Individuals or Organizations			
<b>TOTAL State Costs by Category</b>	<b>\$180,001</b>		<b>\$</b>
<b>B. State Costs by Source of Funds</b>			
GPR			
FED			
PRO/PRS			
SEG/SEG-S (s. 20.395 (5)(cq))	180,001		
<b>III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</b>			
	Increased Rev	Decreased Rev	
GPR Taxes	\$	\$	
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S (s.)	1,349,200		
<b>TOTAL State Revenues</b>	<b>\$1,349,200</b>	<b>\$</b>	
<b>NET ANNUALIZED FISCAL IMPACT</b>			
	<u>State</u>	<u>Local</u>	
NET CHANGE IN COSTS	\$180,001	\$	
NET CHANGE IN REVENUE	\$1,349,200	\$	
<b>Agency/Prepared By</b>			
DOT/ Vicki Harkins (608) 266-1449		<b>Authorized Signature</b>	
		Stephanie LaSage (608) 267-3703	
<b>Date</b>			
1/30/2012			