

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 118 - SB 44

March 30, 2009

SUMMARY OF BILL: Increases the punishment for a sixth or subsequent offense of driving under the influence (DUI) from a Class E to a Class D felony punishable by a fine of not less than \$5,000 nor more than \$20,000, revocation of driver's license for five years, and confinement for not less than 220 consecutive days to be served day-for-day up to six years.

ESTIMATED FISCAL IMPACT:

Increase State Revenue – Not Significant

Increase State Expenditures – \$38,500/One-Time

\$540,900/Incarceration*

Increase Local Revenue - \$360,000

Assumptions:

- Under current law a second DUI violation is a misdemeanor punishable by a fine ranging from \$600 to \$3,500, revocation of driver's license for two years, and confinement in the county jail for 45 days to 11 months, 29 days. A third violation is a misdemeanor punishable by a fine ranging from \$1,100 to \$10,000, revocation of driver's license for three to ten years, and confinement in the county jail for 120 days to 11 months, 29 days. A fourth or subsequent violation is a Class E felony punishable by a fine ranging from \$3,000 to \$15,000, revocation of driver's license for five years, and confinement for not less than 150 consecutive days to be served day-for-day up to six years.
- According to the Department of Safety (DOS), 11 computer program changes would be required to capture the sixth or subsequent DUI at a one-time cost of \$38,500 (\$3,500 x 11). DOS statistics show 876 third-time DUI offenders and 638 fourth-time offenders. DOS estimates sixth-time and subsequent DUI offenders would range from 150 to 300 per year. DUI fines are retained by the county in which the violation occurred. Twenty percent will not pay fines due to indigence. The increase to local government revenue derived from fines is estimated to be \$360,000 (225 individuals x \$2,000 x 80% = \$360,000) per year.

- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2009 is \$59.80. The average post-conviction time served for a Class D felony is 2.43 years and 1.63 years for a Class E felony. The cost per offender at 2.43 years is \$52,995.96 (\$59.80 x 886.22 days). The cost per offender at 1.63 years is \$35,548.11 (\$59.80 x 594.45 days).
- According to DOC, there has been an average of 124 admissions for fourth or subsequent DUI offenses. DOC assumes 25 percent (31) would have been a sixth or subsequent violation and would receive a Class D felony as a result of this bill.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in three additional offenders. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 34 offenders serving additional time on their sentences. The additional operating cost for increasing the average sentence length by 0.8 years is \$17,447.85 (\$52,995.96 - \$35,548.11). The total additional operating cost for 34 offenders is \$540,883.35 (\$17,447.85 x 31).
- Any impact on state trial courts can be accommodated within existing judicial resources.
- Based on the Fiscal Review Committee's 2008 study of incarceration costs and fines, collection of fines for felony offenses is negligible. There will not be a significant increase in state revenue as a result of the increase in mandatory minimum fines for these offenses.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc