

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7742
BILL NUMBER: SB 525

DATE PREPARED: Jan 13, 1999
BILL AMENDED:

SUBJECT: Operating while intoxicated (OWI) and open containers.

FISCAL ANALYST: Mark Bucherl
PHONE NUMBER: 232-9869

FUNDS AFFECTED: **GENERAL**
 DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill makes it: (1) a Class C misdemeanor for a person to operate a vehicle with at least 0.10% by weight of alcohol in the person's blood or breath but less than 0.15% by weight of alcohol in the person's blood or breath; (2) a Class B misdemeanor for a person to operate a vehicle with at least 0.15% by weight of alcohol in the person's blood or breath but less than 0.20% by weight of alcohol in the person's blood or breath; and (3) a Class A misdemeanor for a person to operate a vehicle with at least 0.20% by weight of alcohol in the person's blood or breath. It requires a court to order a person who has been convicted of operating a vehicle while intoxicated: (1) to be imprisoned for at least five days or to perform at least 30 days of community service if the person has one previous conviction of operating a vehicle while intoxicated; and (2) to be imprisoned for at least ten days or to perform at least 60 days of community service if the person has at least two previous convictions of operating a vehicle while intoxicated.

This bill makes it a Class B infraction for the operator of a motor vehicle to, while the motor vehicle is in operation, knowingly allow an alcoholic beverage container that has been opened, that has a broken seal, or from which some of the contents have been removed to be in the passenger compartment of the motor vehicle.

Effective Date: July 1, 1999.

Explanation of State Expenditures: This bill creates new Class A & B misdemeanors provision for violations involving OWI. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class A misdemeanor is \$5,000; for a Class B misdemeanor it is \$1,000. Criminal fines are deposited in the Common School Fund. For cases filed in circuit, superior, county or municipal courts of record, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If cases are filed in city or town courts, 55% of the fee would be deposited in the state General Fund.

Over 10,000 persons were involved in misdemeanor OWI offenses in CY 1998.

Explanation of State Revenues: In removing the current OWI requirement to charge an open container offense, additional court cases may occur. Revenue to the state General Fund may increase if infraction judgments and court fees are collected. The maximum judgment for a Class B infraction is \$1,000 which is deposited in the state General Fund. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed. 70% of the court fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures: A Class A misdemeanor is punishable by up to one year in jail, while a Class B misdemeanor is punishable by 180 days. This bill also provides for mandatory and lengthened jail time or optional community service for successive offenses. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44. Community service oversight is provided by court probation offices.

Explanation of Local Revenues: If additional infraction and misdemeanor actions are filed and judgments entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 infraction court fee (27% of the \$120 misdemeanor fee) that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund.(2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected:

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: David Sutherlin, Bureau of Motor Vehicles.