

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

301 State House
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FISCAL IMPACT STATEMENT

LS 7742
BILL NUMBER: SB 525

DATE PREPARED: Mar 26, 1999
BILL AMENDED: Mar 25, 1999

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

FISCAL ANALYST: Mark Bucherl, Jim Sperlik
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FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) (A) This bill makes it a Class A misdemeanor for a person to operate a vehicle with at least 0.15% 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 and to successfully complete an alcohol or a drug abuse deterrent program 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 and to successfully complete an alcohol or a drug abuse deterrent program if the person has at least two previous convictions of operating a vehicle while intoxicated.

(B) This bill also requires the Legislative Council to provide for a study of the open container law to determine what revisions are needed to protect public safety and to comply with federal mandates for transportation funding.

Effective Date: July 1, 1999.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) (A) This bill creates new Class A misdemeanor for a violation involving operating a vehicle while intoxicated (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. 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.

Also, in targeting high blood alcohol content, this bill may allow Indiana to qualify for a federal safety incentive grant of between \$107,000 and \$343,000 a year.

(B) As directed by this bill, the Legislative Council is to provide for a study of the need for the open container law. Costs would depend on whether the study was conducted by an existing interim study committee or if a new committee was created to deal with this issue. (Most interim legislative committees are allocated \$9,000 per year.)

The Indiana Department of Transportation (INDOT) reports that failure to pass an “open container” law, as directed by the Transportation Equity Act for the 21st Century (TEA 21), would cause federal highway construction and maintenance program funds to be transferred to alcohol-impaired driving countermeasure programs. TEA 21 will be in effect from 1998 through 2003. The INDOT has identified the possible impact (penalties) with no “open container” law. These possible federal penalties are listed in the table below:

Penalty	Fiscal Year	Amount
1.5% of NHS, STP, and IM*	2001	\$5.4 million
1.5% of NHS, STP, and IM*	2002	\$5.4 million
3% of NHS, STP, and IM*	2003	\$11.1 million

*NHS National Highway System
STP Surface Transportation Program
IM Interstate Maintenance

The INDOT reports that the above penalties are estimated based on the assumption that no “open container” laws are passed during the course of TEA 21 and no “repeat offender” laws are passed during this time period. The penalty amounts would be transferred from NHS, IM, and STP to a State’s Section 402 Safety apportionment. Funds transferred to Section 402 must be used for alcohol-impaired driving countermeasures or enforcement of OWI or driving under the influence and related laws.

Explanation of Local Expenditures: (Revised) (A) A Class A misdemeanor is punishable by up to one year in jail. 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: (Revised) (A) If additional 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 \$120 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: Department of Transportation; Criminal Justice Institute.

Local Agencies Affected: Trial courts, local law enforcement agencies; those entities that receive federal highway funds potentially affected by the provisions of this bill.

Information Sources: David Sutherlin, Bureau of Motor Vehicles, 232-7403; Dennis Faulkenberg, Deputy Commissioner and Chief Financial Officer of the INDOT, 232-1472; Catherine O'Connor, Director of the Criminal Justice Institute, 232-2560.