

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

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6424

BILL NUMBER: HB 1052

NOTE PREPARED: Feb 27, 2008

BILL AMENDED: Feb 26, 2008

SUBJECT: Motorist Duties at Accident Scenes and Operating While Intoxicated Offenses.

FIRST AUTHOR: Rep. Neese

FIRST SPONSOR: Sen. Riegsecker

BILL STATUS: As Passed Senate

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill does the following.

Examination for Learner's Permit: The bill requires an examination for a learner's permit to test the applicant's knowledge of the duty to stop and provide assistance.

Driver's Duty at Accident Scene: The bill provides that the law requiring a driver involved in an accident to stop at the accident scene, notify the appropriate law enforcement agency, and render reasonable assistance applies if the accident results in the entrapment of a person in a vehicle. (Under current law, the law applies only if the accident results in the injury or death of a person.)

Passenger's Duty at Accident Scene: The bill also provides that if the driver is physically incapable of notifying the appropriate law enforcement agency or rendering reasonable assistance, the duty to notify or to render reasonable assistance is imposed on a passenger in the driver's vehicle who is capable of discharging the duty if the passenger:

- (1) at least 15 years of age and holds a learner's permit or driver's license; or
- (2) at least 18 years of age.

Class C Misdemeanors: It provides that a passenger commits a Class C misdemeanor if the passenger fails to notify or to render reasonable assistance when the duty is imposed upon the passenger. It also provides that a person who knowingly, intentionally, or recklessly violates the law requiring a driver or a passenger to take certain actions at the scene of an accident commits a Class C misdemeanor.

Crimes of Violence: The bill specifies that felony resisting law enforcement and operating while intoxicated (OWI) causing serious bodily injury are crimes of violence.

Enhanced OWI Penalties: It makes:

- (1) OWI committed by a person with a previous conviction for OWI resulting in serious bodily injury a Class C felony;
- (2) OWI causing serious bodily injury a Class C felony;
- (3) OWI causing serious bodily injury committed by a person with a previous conviction for OWI a Class B felony; and
- (4) OWI causing death committed by a person with a blood alcohol level greater than .15% a Class A felony.

License Suspension: This bill permits a court to require a license suspension imposed as the result of a conviction for operating while intoxicated to be imposed before or after, or both before and after, any period of incarceration.

Leaving the Scene of an Accident: It also makes leaving the scene of an accident after committing operating while intoxicated causing death:

- (1) or serious bodily injury a Class B felony; and
- (2) failing to comply with certain driver's duties, a Class A felony.

Effective Date: July 1, 2008.

Summary of NET State Impact: (Revised) State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time. Under the bill, several offenses involving leaving the scene of an accident and operating while intoxicated have increased penalties under certain circumstances which could increase the length of stay in a state correctional facility. Also, the bill adds to the list of crimes of violence for which a judge may impose a sentence that is longer than the advisory or midpoint of the sentence. Based on commitment data reported by the Department of Correction (DOC), an additional 238 beds would be needed by 2021 with an average annual cost of incarceration of \$4.5 M.

The bill will also increase the fine and fee revenue deposited in the Common School Fund and the state General Fund by enhancing penalties and establishing new offenses.

Explanation of State Expenditures: (Revised) *Examination for Learner's Permit and License Suspension:* The bill would have minimal fiscal impact on the Bureau of Motor Vehicles (BMV) to test the knowledge of an applicant for a learner's permit concerning the duties imposed at the scene of an accident. The bill would allow the court to suspend a driver's license before or after a period of incarceration or both. Costs for tracking offender license suspensions are not expected to increase costs for the BMV.

(Revised) *Crimes of Violence:* When the court imposes a consecutive sentence for a felony conviction that is not a crime of violence and that arises out of one episode of criminal conduct, the court is required to use the advisory sentence (midpoint between the range maximum and minimum). Under the bill, operating a motor vehicle while intoxicated causing serious bodily injury to another person and resisting law enforcement as a felony offense would be added to the crimes of violence which are exceptions to this sentencing law. The fiscal impact of this provision is indeterminate.

(Revised) *Failing to Stop at the Scene of an Accident:* There are no data available to indicate how many

offenders may be subject to the enhanced Class A felony for failing to stop after committing OWI resulting in death, or to the enhanced Class B felony if it resulted in serious bodily injury.

[The underlying penalty for this offense is a Class A misdemeanor. However, the offense may be increased to a Class D felony if the accident involves serious bodily injury or is within five years of a previous conviction, and to a Class C felony if the accident involves the death of a person. On average between 2002 and 2005, there were eight people a year committed to a state correctional facility for the Class D felony, and in 2005 there were five people for the Class C felony.]

(Revised) *Enhanced Operating While Intoxicated Penalties*: The bill would make the following changes.

Indiana Code	Current Crime Class	Proposed Change	Number of Offenders
IC 9-30-5-3 Operating a vehicle while intoxicated with a previous conviction or a minor in the vehicle.	Class D felony.	Class C felony enhancement if the person has a previous conviction for driving while intoxicated causing death.	2.5
IC 9-30-5-4 Operating a vehicle while intoxicated causing serious bodily injury.	Class D felony, or Class C felony with prior conviction.	Class C felony, or Class B felony with prior conviction.	43 19
IC 9-30-5-5 Operating a vehicle while intoxicated causing death.	Class C felony, or Class B felony causing death with certain intoxicant levels.	Class A felony for the enhanced penalty.	17

Since these offenders would have a later date of release, enhancing these offenses could increase the number of beds needed if no other changes occur. Based on commitment and release data, it is estimated that 238 additional beds would be needed by 2021, with need for additional beds beginning in 2009. Based on an average annual cost to house an offender of \$19,084, the total operating costs for these additional offenders is estimated to be \$4.5 M.

Fiscal Year	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Additional Offenders	2	48	71	90	109	128	147	164	181	198	215	232	238
Total Cost (dollars in millions, except 2009)	38,168	0.9	1.4	1.7	2.1	2.4	2.8	3.1	3.5	3.8	4.1	4.4	4.5

Background & Additional Details:

For FY 2007, BMV spent \$279,000 for forms which would include written tests of applicants for learner's permits.

(Revised) The Bureau of Motor Vehicles reports the number of drivers with suspended licenses for OWI-related offenses as the following.

New License Suspensions by Calendar Year						
	2000	2001	2002	2003	204	2005
OWI per se	2,459	3,048	4,617	4,885	5,017	4,717
OWI	13,332	12,499	13,024	12,137	11,718	11,539
OWI/ Unspecified	16	11	17	7	6	5
Prior OWI/5 Yrs	4,006	3,772	3,799	4,328	4,233	3,971
OWI Causing Injury	67	64	75	76	87	86
OWI Causing Death	27	21	22	30	29	36
Total OWI-Related Suspensions	19,907	19,415	21,554	21,463	21,090	20,354

Explanation of State Revenues: Class C Misdemeanors: There are no data available to indicate if additional offenders may be convicted of a Class C misdemeanor for violating provisions concerning injury accidents if entrapment of a person in the vehicle is added to the definition. Also, there are no data available to indicate how many passengers may be convicted of a Class C misdemeanor for failing to report or render reasonable assistance in the event that the driver of the vehicle is incapable of doing so.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C misdemeanor is \$500. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 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 the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$17), the public defense administration fee (\$3), the court administration fee (\$3), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Background & Additional Details

On average between 2001 and 2005, there were 91 offenders a year found guilty of failing to stop at an accident with injuries and 138 offenders found guilty of leaving the scene of a vehicle accident.

Explanation of Local Expenditures: Class C Misdemeanors: A Class C misdemeanor is punishable by up

to 60 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Class C Misdemeanors:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court 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. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: DOC; BMV.

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

Information Sources:

Fiscal Analyst: Mark Goodpaster, 317-232-9852; Karen Firestone, 317-234-2106.