

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6891

BILL NUMBER: HB 1579

NOTE PREPARED: Apr 29, 2013

BILL AMENDED: Apr 26, 2013

SUBJECT: Open Container Laws.

FIRST AUTHOR: Rep. Smaltz

FIRST SPONSOR: Sen. Kruse

BILL STATUS: Enrolled

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 X FEDERAL

IMPACT: State

Summary of Legislation: The bill provides that, for purposes of open container laws, the exemption for a person who is in the passenger compartment of a vehicle used to transport passengers for compensation or the living quarters of a house coach or trailer does not apply to the operator of the vehicle.

Effective Date: July 1, 2013.

Explanation of State Expenditures:

Explanation of State Revenues: If the amendment of existing statute satisfies the requirements of the Moving Ahead for Progress in the 21st Century Act (MAP-21) concerning open container laws, the state will be able to use \$20.2 M in federal funds for general construction programs, rather than for alcohol-impaired driving programs or Highways Safety Improvement Program-eligible activities.

MAP-21 provides for the reservation of apportioned federal-aid funds to:

- (1) alcohol-impaired driving programs, or
- (2) Highways Safety Improvement Program-eligible activities.

The penalty is equal to 2.5% of the National Highway Performance Program and the Surface Transportation Program allocation to the state for the fiscal year in which the state is noncompliant. The penalty is applied separately for each section in which the state is noncompliant.

In October 2012, Indiana was found to be noncompliant with the open container law requirements of 23USC

154. [A previous notification dated August 3, 2012, did not include Indiana in the list of states to be apportioned.] The \$20.2 M penalty is approximately 2.5% of the \$970.7 M the state receives from the Federal Highway Administration (FHWA).

The penalty is assessed on October 1 and applies until the following October 1. If a state makes a law change midyear and the change is accepted by the FHWA as correcting a noted problem, the state will wait until the following October 1 for full funding.

According to INDOT, FHWA indicated that Indiana's current open container law does not specifically disallow an operator in a vehicle meant to transport other passengers (e.g., bus, taxi, or limo driver) from having an open container. INDOT believes the change to existing statute in the bill will comply with the federal requirements on the open container issue.

One of the requirements of the alcohol-impaired driving programs is that at least 40% of the funds be spent by or for the benefit of political subdivisions. It is unknown whether this requirement would result in a required transfer of funding to local units.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: INDOT.

Local Agencies Affected: Political subdivisions.

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