

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 353 (Committee Substitute)

SHORT TITLE: Governor's Task Force on DWI/AB

SPONSOR(S): Representative Hackney

FISCAL IMPACT: **Expenditures:** **Increase ()** **Decrease (**
)
Revenues: **Increase ()** **Decrease (**
)
No Impact (X)
No Estimate Available ()

FUNDS AFFECTED: **General Fund ()** **Highway Fund ()**
Local Fund () **Other Fund ()**

BILL SUMMARY: "TO IMPLEMENT THE RECOMMENDATIONS OF THE GOVERNOR'S TASK FORCE ON DRIVING WHILE IMPAIRED." Identical to S 298, introduced 3/2/95. Makes following changes regarding impaired driving offenses: (1) Amends GS 20-179.3, regarding limited driving privileges, to (a) authorize judge, when granting limited driving privilege, to require defendant to drive a motor vehicle equipped with an ignition interlock system that must be activated before driving the vehicle, and (b) require defendant to obtain a substance abuse assessment before being eligible for a privilege. (2) Amends GS 20-13.2 to provide that person under the age of 21 (now, 18) who is convicted of an impaired driving offense or who fails to submit to chemical analysis must have his license revoked, and provides that revocation period for person who is 19 or 20 is for the longer of 45 days or the number of days from the date of the charge until the person's 21st birthday. (3) Amends GS 20-138.3 to make it unlawful for person under the age of 21 (now, 18) to drive a motor vehicle after consuming any alcohol or drugs. (4) Amends GS 20-16.2 (a) to clarify that charging officer or arresting officer may give test and rights required by statute regardless of type of chemical analysis designated. (5) Adds GS 20-138.7 creating a new Class 3 misdemeanor that prohibits person from driving a motor vehicle on a highway or public vehicular area while there is an alcoholic beverage other than in the unopened manufacturer's original container in the passenger area and while the driver has alcohol in his body. Provides that this offense is subject to implied-consent law, is an offense involving impaired driving, and conviction results in an automatic license revocation. Repeals provisions in GS 18B-401 dealing with transportation of opened alcoholic beverages. (6) Amends GS 20-16.2 to (a) increase from 10 to 30 days the length of the immediate civil license revocation if the test reveals an alcohol concentration of 0.08 or more or if the person refuses a breathalyzer test, and (b) increase from 30 to 90 days the length

of revocation when the person does not surrender license within 5 days of order to surrender. (7) Amends GS 15A-401(b) to add impaired driving offenses to those offenses for which a law enforcement officer may arrest without a warrant when the officer has probable cause to believe the person to be arrested committed the offense. (8) Amends GS 20-179 to provide that for purposes of DWI sentencing, driving with an alcohol concentration of 0.16 (now, 0.20) or more is an aggravating factor and driving with alcohol concentration that did not exceed 0.09 (now, 0.11) is a mitigating factor. (9) Lowers from 0.15 to 0.13 the minimum blood alcohol concentration level at which court can order participation in treatment program of longer than 90 days. (10) Amends GS 75A-10 to lower blood alcohol limit for operating a motor boat after having consumed alcohol from 0.10 to 0.08.

Amendments/Committee Substitutes-March 22, 1995-Daily Bulletin #33 Intro. 3/6/95. House committee substitute replaces 1st edition. Amends GS 20-13.2(d) to make the length of revocation of a provisional license for DWI one year, rather than a variable number of days. Adds new GS 20-138.3(d) to provide for a limited driving privilege for a person convicted under that section (person under 21 with some blood level of alcohol or drugs) if blood level concentration of alcohol was less than 0.08 and person had not previously been convicted under section. Amends GS 20-16.5(e) to conform the 10 day time limitation in that statute to the 30 day limitations used elsewhere.

EFFECTIVE DATE: Provision (4) effective on ratification. Remaining provisions effective October 1, 1995 and apply to offenses committed on or after that date.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Branch; Department of Motor Vehicles; Department of Human Resources

FISCAL IMPACT

| | <u>FY</u> 95-96 | <u>FY</u> 96-97 | <u>FY</u> 97-98 | <u>FY</u> 98-99 | |
|---------------------|-----------------|-----------------|-----------------|-----------------|------------------|
| | <u>FY</u> 99-00 | | | | |
| EXPENDITURES | | | | | RECURRING |
| NON-RECURRING | | | | | NO FISCAL IMPACT |

REVENUES (see page 4 for information on federal funds)

The proposed legislation includes several changes to existing impaired driving laws. Many of the changes would affect those who would have already been charged with Driving While Impaired. Tacking on additional charges or requiring longer periods of revocation may increase the complexity in some cases, but overall, there would probably not be a substantial amount of additional work or related increases in costs for the Judicial Branch, the Department of Motor Vehicles, or the Department of Human Resources.

ASSUMPTIONS AND METHODOLOGY: Department of Motor Vehicles

Under the proposed legislation, judges would be allowed to order an ignition interlock system installed on any vehicle driven as a condition of a limited driving privilege in order to prevent driving after drinking. Ignition interlock systems are already used in some situations. The defendant must pay to have the ignition interlock system installed (\$70), and a monthly equipment rental fee (\$50/month).

Under the proposed legislation, the license revocation periods would be increased. The Department of Motor Vehicles anticipates that the individuals that would be affected by the related sections of the proposed bill would have already been charged with DWI. Thus, this bill is not increasing the number of license revocations, but rather increasing the duration of each revocation.

ASSUMPTIONS AND METHODOLOGY: Department of Human Resources

The proposed legislation would require all persons convicted of Driving While Impaired to obtain a substance abuse assessment prior to being granted a limited driving privilege. Current law allows for a \$50 fee per Substance Abuse Assessment as a condition of receipt of a limited driving privilege. The fee is paid by the applicant.

ASSUMPTIONS AND METHODOLOGY: Judicial Branch

The Administrative Office of the Courts believes that the Judicial Branch can absorb the increase in workload that may result from the proposed legislation. The proposed bill increases the penalties associated with drinking and driving. However, it is not expected that the number of individuals picked up for this offense would increase as a result of this bill. Rather, the individuals that would have already been charged with Driving While Impaired would be affected by the stricter guidelines set forth in the proposed legislation.

ADDITIONAL INFORMATION REGARDING FEDERAL FUNDS

The proposed legislation contains two sections that could potentially provide North Carolina with additional highway funds. These two sections are: (1) zero tolerance for those under the age of 21; and (2) open container and anti-consumption of any alcoholic beverage in the passenger area of any motor vehicle (with certain exceptions). These funds would be allotted to the Governor's Highway Safety Fund for enforcement activities, public education and equipment. If the proposed legislation is passed as currently written, an additional \$343,924 in Section 410 moneys (Alcohol Incentive Grant moneys) would be available to North Carolina.

SOURCES OF DATA: Administrative Office of the Courts; Department of Motor Vehicles; Department of Human Resources

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION

733-4910

PREPARED BY: Whitney A. Obrig
Jim Mills

APPROVED BY: Tom Covington TomC

DATE: March 29, 1995

[FRD#003]

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UPDATED VERSION - JUNE 27, 1995 NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 353 (Committee Substitute 6/20/95)

SHORT TITLE: Governor's Task Force on DWI/AB

SPONSOR(S): Representative Hackney

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|-----------------------|----------------------------------|---------------------|---------------------|
| FISCAL IMPACT: | Expenditures: | Increase () | Decrease () |
| | | | |
| | Revenues: | Increase () | Decrease () |
| | | | |
| | No Impact (X) | | |
| | No Estimate Available () | | |

FUNDS AFFECTED: **General Fund ()** **Highway Fund ()**
 Local Fund () **Other Fund ()**

BILL SUMMARY: "TO IMPLEMENT THE RECOMMENDATIONS OF THE GOVERNOR'S TASK FORCE ON DRIVING WHILE IMPAIRED." Identical to S 298, introduced 3/2/95. Makes following changes regarding impaired driving offenses: (1) Amends GS 20-179.3, regarding limited driving privileges, to (a) authorize judge, when granting limited driving privilege, to require defendant to drive a motor vehicle equipped with an ignition interlock system that must be activated before driving the vehicle, and (b) require defendant to obtain a substance abuse assessment before being eligible for a privilege. (2) Amends GS 20-13.2 to provide that person under the age of 21 (now, 18) who is convicted of an impaired driving offense or who fails to submit to chemical analysis must have his license revoked, and provides that revocation period for person who is 19 or 20 is for the longer of 45 days or the number of days from the date of the charge until the person's 21st birthday. (3) Amends GS 20-138.3 to make it unlawful for person under the age of 21 (now, 18) to drive a motor vehicle after consuming any alcohol or drugs. (4) Amends GS 20-16.2 (a) to clarify that charging officer or arresting officer may give test and rights required by statute regardless of type of chemical analysis designated. (5) Adds GS 20-138.7 creating a new Class 3 misdemeanor that prohibits person from driving a motor vehicle on a highway or public vehicular area while there is an alcoholic beverage other than in the unopened manufacturer's original container in the passenger area and while the driver has alcohol in his body. Provides that this offense is subject to implied-consent law, is an offense involving impaired driving, and conviction results in an automatic license revocation. Repeals provisions in GS 18B-401 dealing with transportation of opened alcoholic beverages. (6) Amends GS 20-16.2 to (a) increase from 10 to 30 days the length of the immediate civil license revocation if the test reveals an alcohol concentration of 0.08 or more or if the person refuses a breathalyzer test, and (b) increase from 30 to 90 days the length of revocation when the person does not surrender license within 5 days of order to surrender. (7) Amends GS 15A-401(b) to add impaired driving offenses to those offenses for which a law enforcement officer may arrest without a warrant when the officer has probable cause to believe the person to be arrested committed the offense. (8) Amends GS 20-179 to provide that for purposes of DWI sentencing, driving with an alcohol concentration of 0.16 (now, 0.20) or more is an aggravating factor and driving with alcohol concentration that did not exceed 0.09 (now, 0.11) is a mitigating factor. (9) Lowers from 0.15 to 0.13 the minimum blood alcohol concentration level at which court can order participation in treatment program of longer than 90 days. (10) Amends GS 75A-10 to lower blood alcohol limit for operating a motor boat after having consumed alcohol from 0.10 to 0.08.

Amendments/Committee Substitutes-March 22, 1995-Daily Bulletin #33

Intro. 3/6/95. House committee substitute replaces 1st edition. Amends GS 20-13.2(d) to make the length of revocation of a provisional license for DWI one year, rather than a variable number of days. Adds new GS 20-138.3(d) to provide for a limited driving privilege for a person convicted under that section (person under 21 with some blood level of alcohol or drugs) if blood level concentration of alcohol was less than 0.08 and person had not previously been convicted under section. Amends GS 20-16.5(e) to conform the 10 day time limitation in that statute to the 30 day limitations used elsewhere.

Amendments/Committee Substitutes-March 30, 1995-Daily Bulletin #38

Intro. 3/6/95. House action amends 2nd edition. Amendment #1 changes effective date of all provisions (except section clarifying that only one office is required to administer chemical analysis of breath) to September 15, 1995 (was October 1, 1995). Amendment #2 amends G.S. 20-28(a1) (driving without reclaiming license) to make it applicable when offense occurred more than 90 days after revocation (now, 30) pursuant to G.S. 20-16.5(f) and period of revocation was 90 days (now, 30), or offense occurred more than 30 days (now, 10) after revocation pursuant to any other provision of G.S. 20-16.5. Also corrects statutory citations. Amendment #3 adds provision that Commissioner of Motor Vehicles shall not unreasonably withhold approval of ignition interlock system and shall consult with Division of Purchase and Contract to insure that potential vendors are not discriminated against.

Amendments/Committee Substitutes-June 20, 1995-Daily Bulletin #84

Intro. 3/6/95. Senate committee substitute replaces 3rd edition. Deletes provision increasing revocation period from ten to thirty days for pretrial civil revocation for drivers charged with impaired driving offenses.

EFFECTIVE DATE: Provision (4) effective on ratification. Remaining provisions effective September 15, 1995 and apply to offenses committed on or after that date.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Branch; Department of Motor Vehicles; Department of Human Resources; Division of Purchase and Contract in the Department of Administration

FISCAL IMPACT

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|-----------------|-----------------|-----------------|-----------------|
| <u>FY</u> 95-96 | <u>FY</u> 96-97 | <u>FY</u> 97-98 | <u>FY</u> 98-99 |
| <u>FY</u> 99-00 | | | |

EXPENDITURES
NON-RECURRING

NO FISCAL IMPACT

RECURRING

REVENUES (see page 4 for information on federal funds)

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SOURCES OF DATA: Administrative Office of the Courts; Department of Motor Vehicles; Department of Human Resources; Division of Purchase and Contract in the Department of Administration

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION (733-4910)

PREPARED BY: Whitney A. Obrig

APPROVED BY: Tom Covington **TomC**

DATE: June 27, 1995

[FRD#003]



Signed Copy Located in the NCGA Principal Clerk's Offices