

**NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE
(INCARCERATION NOTE G.S. 120-36.7)**

BILL NUMBER: SB 558 2nd Edition
SHORT TITLE: Disclosure of Prior MV Damage
SPONSOR(S): Senator Hoyle

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>
GENERAL FUND					
Correction					
Recurring					
Nonrecurring					
Judicial					
Recurring					
Nonrecurring					
TOTAL					
EXPENDITURES:					
ADDITIONAL PRISON BEDS*	<p style="text-align: center;">It is likely that most misdemeanants sentenced to an active sentence under this bill would be housed in local jails at a cost to the State of \$18/day. The exception is Class 1 offenders falling in Prior Record Level III who may receive active sentences that might be served in the state prison system.</p>				
POSITIONS: (cumulative)	<p style="text-align: center;">Unable to determine exact amount; additional positions not anticipated.</p>				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	<p style="text-align: center;">Department of Correction (DOC); Judicial Branch; Local Jails</p>				
EFFECTIVE DATE:	<p style="text-align: center;">Effective when it becomes law.</p>				
	<p><i>*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.</i></p>				

BILL SUMMARY¹: SB 558 amends Article 3 (Motor Vehicle Act of 1937) of Chapter 20 (Motor Vehicles) to provide certain new designations and requirements for any vehicle that is declared a total loss by a licensed insurance company in the State. The bill also clarifies that “model years” shall be calculated by counting the model year of the vehicle’s manufacture as the first model year and the current model year as the final model year. In addition, the bill amends the existing Class 2 misdemeanor to require that any transferor have “actual knowledge” (under current law, the standard is that the transferor “know or reasonably should know”) that a motor vehicle up to and including five model years old has been involved in a collision or other occurrence to the extent that the cost of repairing that vehicle exceeds 25% of its fair market value or that a motor vehicle is or was a flood vehicle, reconstructed vehicle, or salvage vehicle. The bill also clarifies various damage and repair disclosure requirements.

New criminal offenses are also created under the bill. SB 558 creates new Class 2 misdemeanors for any person to remove, tamper with, alter, or conceal the ‘TOTAL LOSS CLAIM’ metal plate or other permanent marker that is affixed to the door of any total loss claim vehicle or for any person to reconstruct a total loss claim vehicle and not include or affix a ‘TOTAL LOSS CLAIM’ metal plate or other permanent marker to the doorjamb of the rebuilt vehicle. The bill also creates a new Class 1 misdemeanor for any person, firm, or corporation to knowingly install or reinstall any object in lieu of an airbag, other than an airbag that was designed in accordance with federal safety regulations, as part of a vehicle inflation restraint system.

ASSUMPTIONS AND METHODOLOGY:

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division (FRD) does not assume savings due to deterrent effects for this bill or other criminal penalty bills.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes and fiscal memos are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five year Fiscal Note horizon and beyond.* The number of beds needed will always be equal to the projected number of inmates due to a bill.

Since the proposed bill creates new offenses (knowingly install or reinstall any object in lieu of an airbag, and tampering with “Total Loss Claim” metal plate or permanent marker), the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be sentenced under this bill. In

¹ AOC Research and Planning Division

FY 2001-02, 15.8 percent of Class 1 misdemeanor convictions resulted in active sentences. The average estimated time served was 35.2 days. It is likely that misdemeanants sentenced under this bill would be housed in local jails but paid for by the State at a cost of \$18/day. (Active sentences between 1-90 days are served in local jails; the DOC reimburses counties for active sentences between 30-90 days). Because only Class 1 misdemeanants falling in Prior Record Level III may receive active sentences that might be served in the state prison system, convictions for this proposed offense would not be expected to have a significant impact on the prison population. In FY 2001-2002, 12.6% of Class 2 misdemeanor convictions for non-traffic offenses resulted in active sentences. The average estimated time served was 15.1 days.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

While the AOC expects new cases to arise under the bill, they are unable to provide an exact number of additional cases. AOC does not have an offense code for the Class 2 misdemeanor offenses under current G.S. 20-71.4 (failure to disclose damage to a vehicle shall be a misdemeanor). Data are also not available on the frequency of occurrences of the newly proscribed conduct under the bill resulting in new Class 1 and Class 2 misdemeanors being charged.

For Class 1 misdemeanor offenses that are brought to trial, the estimated court cost per trial is \$3,144. For Class 1 misdemeanor offenses not brought to trial, and where a guilty plea is entered, AOC estimates the cost per guilty plea at \$279. For Class 2 misdemeanor offenses that are brought to trial, the estimated court cost per trial is \$2,264. For Class 2 misdemeanor offenses not brought to trial, and where a guilty plea is entered, AOC estimates the cost per guilty plea at \$266.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission.

TECHNICAL CONSIDERATIONS: The bill date is effective when it becomes law. Traditionally, most bills with criminal penalties become effective on December 1. This date has been used to give the criminal justice system time to change their operating systems to accommodate criminal penalty changes and to inform and train attorneys and judges of those changes. There is typically a delay of six months between charging and sentencing an offender. The NC Sentencing and Policy Advisory Commission population projections assume a December 1 effective date, and thus are based on changes in population starting the second year. The expenditures and savings calculated by Fiscal Research use these projections and, thus, assume that the legislation will not impact the prison system until the beginning of 2004-05. If the bill becomes effective prior to December 1, there will be an impact on prison system in the 2003-04 fiscal year.

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