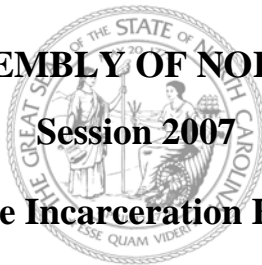


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 236 (Second Edition)

SHORT TITLE: Regulation of Professional Housemoving.

SPONSOR(S): Senator Jenkins

		FISCAL IMPACT				
		Yes (X)	No ()	No Estimate Available ()		
		<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>
GENERAL FUND						
Correction	No significant impact anticipated. See Assumptions and Methodology, p. 2-3					
Judicial	No significant impact anticipated. See Assumptions and Methodology, p. 3-4					
CCPS	No significant impact anticipated.					
DOT	No impact.					
TOTAL						
EXPENDITURES:	Amount cannot be determined.					
ADDITIONAL PRISON BEDS: (cumulative)*	Impact on local jail populations is indeterminate. No assumed impact for State prison population.					
POSITIONS: (cumulative)	None anticipated.					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; Department of Transportation; Department of Crime Control and Public Safety.						
EFFECTIVE DATE: January 1, 2008.						
<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>						

BILL SUMMARY:

Section 1: Rewrites G.S. 20-356 to define “actively engaged” and “unsafe practices” for the purposes of Article 16 of Chapter 20.

Section 2: Rewrites G.S. 20-358(1) to: (1) increase the age of eligibility for a housemoving license, from age 18 to 21; (2) require new applicants to provide sworn affidavits from previous

licensed housemoving employers, detailing the applicants' full time experience and supervisory duties; and (3) extend the length of requisite housemoving experience to at least five years - two of which must have been in a supervisory role.

Section 3: Rewrites G.S. 20-363 to require housemovers to obtain owner's approval before any property, real or personal (including mailboxes), other than that located in the right-of-way, may be moved.

Section 4: Amends G.S. 20-371 to make the following penalty changes: (1) second violation of Article 16 or any Department regulation governing housemoving is a Class 2 misdemeanor, with a possible fine of at least \$1,000; and, (2) third or subsequent violation is a Class 1 misdemeanor, with mandatory fine of at least \$2,000 per violation. Authorizes the State Highway Patrol to impound any conveyance or vehicle used during violation; the vehicle owner is responsible for paying any towing or storage fees for the impounded vehicle.

Section 5: Enacts new G.S. 20-374 (Unsafe operation and practices; unsettled judgments; review of existing license every 12 months), permitting the Department of Transportation to revoke all licenses and permits issued to a housemover that has engaged in unsafe practices or has two or more unsettled judgments filed in North Carolina. Directs that housemovers' licenses be reviewed at least once every 12 months.

Section 6: Effective for offenses committed on or after January 1, 2008.

Source: Adapted from Bill Digest S.B. 236 (02/20/0200)

The second edition of S.B. 236 makes the following changes to the first edition:

- 1) Revises the new punishment provisions in G.S. 20-371(a) to require (was, allow) a minimum fine of \$1,000 for second violation of Article 16, or of Department regulations.
- 2) Deletes new G.S. 20-374(d), which provided that violation of the section is not subject to the provisions of G.S. Chapter 150B (Administrative Procedure Act).
- 3) Makes several technical changes.

Source: Adapted from Bill Digest S.B. 236 (02/20/0200)

ASSUMPTIONS AND METHODOLOGY:

General

Under current G.S. 20-371, any violation of the provisions of Article 16 or the regulations of the Department of Transportation adopted thereunder is a Class 3 misdemeanor, which may include a fine of no more than \$500. S.B. 236 enhances the penalty for repeat offense, making second violation a Class 2 misdemeanor, with mandatory fine of at least \$1,000, and third or subsequent violation a Class 1 misdemeanor, with mandatory fine of at least \$2,000 per violation.

Given these proposed penalty enhancements, any new charge and/or conviction for second or subsequent offense will generate some additional fiscal impact. However, the Administrative Office of the Courts presently does not maintain any specific offense code applicable to Article 16 of Chapter 20, indicating that offenses under this statute are infrequently charged and/or infrequently result in conviction. Accordingly, *based on the nature of offense and proposed*

penalty enhancements, Fiscal Research does not anticipate a significant impact due to this proposed legislation.

Department of Correction: Division of Prisons

Based on the most recent prison population projections and estimated available bed capacity, *there are no surplus prison beds available over the immediate five-year horizon or beyond.* Therefore, any new felony conviction that results in an active sentence will require an additional prison bed.

Because Classes 1 and 2 misdemeanants serve their designated terms of incarceration within local jails, any resultant active sentence due to this proposal should not impact the state's prison population.¹ The potential impact on local jail populations is unknown. Any fines imposed would be credited to the Civil Penalty and Forfeiture Fund.

Because there is presently no offense specific data, it is not known how many repeat offenders would be subject to the proposed penalty enhancements. In FY 2005-06, 17% of Class 2 and 20% of Class 1 misdemeanor convictions resulted in active sentences, with average estimated times served of 13 and 31 days, respectively. Consequently, to the extent that future convictions for repeat offenses were to result in active sentences longer than 30 days, the Department of Correction could incur some additional costs for county reimbursement. However, the typical lengths for Class 1 and 2 misdemeanor active sentences do not suggest a significant increase in DOC reimbursements.

Department of Correction: Division of Community Corrections

In FY 2005-06, 83% of Class 2 and 80% of Class 1 misdemeanor convictions resulted in either intermediate or community punishments, predominantly special, intensive, or general supervision probation. *Thus, if future convictions for the repeat offense were to occur, the Division of Community Corrections (DCC) would likely assume some additional costs for offenders placed under its supervision.* However, it is not known how many offenders would be sentenced to intermediate or community punishments, to which type, or for how long.

Presently, general supervision of intermediate and community offenders by a probation officer costs DCC \$1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. DCC also incurs a daily cost of \$0.69 per offender sentenced to the Community Service Work Program. However, the daily cost per offender on intermediate sanction is much higher, ranging from \$7.71 to \$14.97 depending on the type of sanction. Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated \$14.97 per offender, per day. On average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

Judicial Branch

There is no readily available data from which to determine the number charges that might occur for repeat offenses under G.S. 20-371. However, the Administrative Office of the Courts expects that any penalty enhancement would be accompanied by more vigorous defense and prosecution,

¹ Active sentences between 1-90 days are served in local jails. The Department of Correction reimburses counties \$18 per day for offenders housed longer than 30 days (between 30 and 90). Sentences longer than 90 days are to be served in state prison; however, when bed shortages demand it, the State may lease needed beds from counties.

thereby increasing court-time requirements and workloads for district attorneys, district court judges, clerks, court reporters, and indigent defense counsel. The estimated differences in single trial/plea costs for Classes 1, 2 and 3 misdemeanor offenses are shown below. Actual costs may vary from these general estimates, which include indigent defense costs.

Table 1. Administrative Office of the Courts Cost Estimates Per Trial and Plea: FY 2007-08				
<i>Offense Class</i>	<i>Trial</i>	<i>Plea</i>	<i>Change in Cost: Trial*</i>	<i>Change in Cost: Plea*</i>
Class 3 Misdemeanor	\$ 2,770	\$ 226	N/A	N/A
Class 2 Misdemeanor	\$ 2,770	\$ 230	\$ 0	\$ 4
Class 1 Misdemeanor	\$ 3,702	\$ 243	\$ 932	\$ 13

* Compared to prosecution at Class 3 misdemeanor level, as currently provided

Furthermore, although no significant impact is assumed, any additional case that involves the seizure and impounding of a vehicle would be expected to increase court workload, and potentially increase the number of pretrial release (motor vehicle) and release determinations conducted by the Court. In addition, removal of the administrative procedure exception could subject some DOT revocation decisions to judicial review, pursuant to Chapter 150B.

Department of Crime Control & Public Safety – State Highway Patrol

It is assumed that the majority of costs for impoundment/storage are incurred by the defendant (payment to commercial entity); however, Highway Patrol may experience a slight increase in processing workload. *No significant impact is assumed.*

Department of Transportation

According to DOT, *there is no anticipated fiscal impact due to this proposal.* It is assumed that current staffing and resources may accommodate the proposed review and resultant processing workloads.

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

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Bryce Ball and Denise Thomas

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: April 3, 2007



Signed Copy Located in the NCGA Principal Clerk's Offices