

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 7, 2009

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1983 by Martinez Fischer (Relating to the punishment for certain intoxication related offenses; creating the offense of aggravated driving while intoxicated.), **As Engrossed**

The probable fiscal impact of implementing the bill cannot be determined due to the unavailability of reliable data or information related to criminal history information for prior alcohol concentration level tests which are linked to punishment provisions listed in the bill.

The bill would amend the Penal Code by creating the offense of aggravated driving while intoxicated. A person would commit the offense of aggravated driving while intoxicated if the person while driving has an alcohol concentration of 0.16 or more, or has an alcohol concentration level of 0.02 or more and is operating a commercial vehicle used to transport passengers or property. The minimum punishment for the offense of aggravated driving while intoxicated would be a Class A misdemeanor, the bill would also provide that such offenders would serve a minimum term of confinement of 30 days.

The bill would also amend the enhanced offenses and penalties provision of the Penal Code by including the offense of aggravated driving while intoxicated in the conditions for which the punishment for various intoxication offenses can be enhanced to a felony of the third degree based on previous intoxication offense convictions.

Under present statute, regardless of the level of alcohol in a person's blood stream the first time offense of driving while intoxicated is a Class B misdemeanor. The creation of the offense of aggravated driving while intoxicated would have a more immediate impact on local government by changing the minimum punishment for such offenders from a Class B misdemeanor to a Class A misdemeanor.

There is currently no statewide repository for blood testing for alcohol content, and alcohol concentration level information is not contained with statewide criminal history data or records. There is also no central repository of information for the number of alcohol concentration level tests of 0.02 or more for commercial motor vehicle operators. Therefore, the fiscal impact of implementing the provisions of the bill cannot be determined.

Local Government Impact

The Travis County Sheriff's Office reported new operational costs of a minimum of \$202,500 in fiscal year 2009 to 2013 for additional jail bed days at \$45.00 each. This estimate assumes that only ten percent of all individuals arrested for Driving While Intoxicated would meet the criteria for the proposed offense.

Harris County reported there would be additional costs to enforce and prosecute the new offense. It costs the county \$75 per day for each jail bed, and the new offense would be a Class A misdemeanor for a first time offender, which could result in a maximum jail stay of 12 months.

Nueces County reported additional costs for deputies and for capital outlay, and also stated that counties experiencing jail over-crowding would be faced with similar costs.

The Williamson County Sheriff's Office reported no significant impact to their county jail population.

Johnson County Sheriff's Office, Fort Bend County Sheriff's Office, and Dallas County reported that there would be no significant fiscal impact to implement the provisions of the bill.

Source Agencies: 696 Department of Criminal Justice

LBB Staff: JOB, KJG, ESi, GG, LM, TP