

McKean
McKibben
Fruise

SSB-1045

Judiciary
edited by

SENATE FILE (SF) HF 422

BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY CHAIRPERSON
McKEAN)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act providing for a .08 blood alcohol concentration standard
2 for operating while intoxicated offenses.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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7/1/70

1 Section 1. Section 321J.2, subsection 1, paragraph b, Code
2 1999, is amended to read as follows:

3 b. While having an alcohol concentration of ± 0 .08 or
4 more.

5 Sec. 2. Section 321J.6, subsection 1, paragraph g, Code
6 1999, is amended to read as follows:

7 g. The preliminary breath screening test was administered
8 and it indicated an alcohol concentration of .02 or more but
9 less than ± 0 .08 and the person is under the age of twenty-
10 one.

11 Sec. 3. Section 321J.12, subsection 5, Code 1999, is
12 amended to read as follows:

13 5. Upon certification, subject to penalty of perjury, by
14 the peace officer that there existed reasonable grounds to
15 believe that the person had been operating a motor vehicle in
16 violation of section 321J.2A, that there existed one or more
17 of the necessary conditions for chemical testing described in
18 section 321J.6, subsection 1, and that the person submitted to
19 chemical testing and the test results indicated an alcohol
20 concentration ~~as defined in section 321J.1~~ of .02 or more but
21 less than ± 0 .08, the department shall revoke the person's
22 driver's license or operating privilege for a period of sixty
23 days if the person has had no previous revocation under this
24 chapter, and for a period of ninety days if the person has had
25 a previous revocation under this chapter.

26 Sec. 4. IMPLEMENTATION OF ACT. Section 25B.2, subsection
27 3, shall not apply to this Act.

28 EXPLANATION

29 This bill changes the limit for blood alcohol concentration
30 (BAC) while driving from .10 BAC to .08 BAC. Under this bill,
31 a person who drives with .08 BAC or higher would violate Code
32 section 321J.2, the operating while intoxicated statute.

33 This bill may include a state mandate as defined in Code
34 section 25B.3. This bill makes inapplicable Code section
35 25B.2, subsection 3, which would relieve a political

1 subdivision from complying with a state mandate if funding for
2 the cost of the state mandate is not provided or specified.
3 Therefore, political subdivisions are required to comply with
4 any state mandate included in this bill.

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3/31/99 Referred from Calendar to Judiciary
2/29/00 Do Pass

FILED MAR 15 1999
3/20/00 Referred back to Judiciary

SENATE FILE 422
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1045)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

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SF 422

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17 of the necessary conditions for chemical testing described in
18 section 321J.6, subsection 1, and that the person submitted to
19 chemical testing and the test results indicated an alcohol
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**SENATE FILE 422
FISCAL NOTE**

The estimate for Senate File 422 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 422 changes the maximum blood alcohol concentration while driving from .10 to .08. Persons found to be driving with a blood alcohol concentration of .08 or higher would violate the operating while intoxicated (OWI) statute.

ASSUMPTIONS

1. Charge, conviction, and sentencing patterns will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
3. Fine collection rates will not change over the projection period.
4. The law will become effective July 1, 2000. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system.
5. Defense costs (State Public Defender's Office) and prosecution costs are assumed to be the same: OWI costs \$500 per case. A vehicular homicide Class B felony costs \$3,000 per case. A serious injury OWI Class D felony costs \$1,000 per case.
6. The cost to the Judicial Branch for an OWI case is \$639 per day with a District Associate Court Judge presiding and \$687 per day with a District Court Judge presiding. An OWI First trial lasts two days. An OWI Second trial lasts two to three days. An OWI Third case lasts four days. Based on analysis of FY 1998 Justice Data Warehouse information, 1.2% of the OWI cases go to trial, while 98.8% are settled with a guilty plea. Other administrative costs will be absorbed within the appropriated budget.
7. The marginal cost for adding one inmate to the prison system is \$12 per day.
8. OWI offenders will spend approximately two years under Community-based Corrections (CBC) supervision.
9. The marginal cost of adding one offender to a CBC residential facility is \$14 per day. Offenders will spend four months in a residential facility.
10. One-fourth of the offenders receiving treatment in a residential facility will be placed on intensive supervision following release from the residential facility. The other three-fourths will go directly to street supervision.
11. The cost of intensive supervision is \$9.41 per day. Offenders spend 180 days on intensive supervision.
12. The cost for regular probation or parole (street supervision) is \$1.53 per day.
13. The marginal cost for adding one offender to jail is assumed to be the

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same as a CBC residential facility or \$14 per day.

14. OWI First offenders will spend seven days in jail. OWI Second offenders will spend 16 days in jail. OWI Third offenders will spend 52 days in jail.
15. The cost for the Department of Transportation to handle an OWI conviction is \$16.77 per case. Approximately one-fifth will appeal. The cost of an appeal is \$137.17 per case.
16. Fines collected for OWI convictions will be deposited into the General Fund.
17. The Department of Transportation will receive additional Federal Highway Apportionment funds if Iowa adopts this Bill. The amounts given are the estimated maximum amounts to be received. The additional apportionments must be reauthorized in FY 2004 to continue, therefore no estimate is offered after that year.

CORRECTIONAL IMPACT

Senate File 422 will increase convictions for OWI related offenses as follows:

	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2005</u>
OWI First	183	366	366
OWI Second	56	112	112
OWI Third	25	49	49
Vehicular Homicide	0	-1	-1
OWI Serious Injury	0	-1	-1

Senate File 422 will increase the admissions to the Department of Corrections programs and increase the admissions to county jails. The projected impact on admissions is as follows:

	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2005</u>
Jails	179	358	358
Probation/Parole	101	233	233
CBC Facilities	16	33	33
Prisons	14	29	29

Prison population will increase by:

	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2005</u>
Prisons	8	6	3

FISCAL IMPACT

The fiscal impact of Senate File 422 is as follows:

State General Fund Impact:

	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2005</u>
Judicial Branch	\$ 5,000	\$ 9,000	\$ 9,000
Public Defender	132,000	260,000	260,000
CBC	39,000	80,000	80,000
Prisons	35,000	26,000	13,000
Dept. of Trans.	12,000	24,000	24,000
Total State	\$223,000	\$399,000	\$386,000

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County Impact:

	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2005</u>
County Attorneys	\$132,000	\$260,000	\$260,000
Jails	28,000	56,000	56,000

Senate File 422 will generate the following revenues:

	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2005</u>
Fines to Gen. Fund	\$ 60,000	\$ 169,000	\$ 239,000
Fed. Highway Funds	2,780,000	3,090,000	Unknown

SOURCES

Criminal and Juvenile Justice Planning Division, Department of Human Rights
 Justice Data Warehouse
 Department of Transportation
 Judicial Branch
 State Public Defender's Office
 Department of Corrections
 Fifth Community-Based Corrections District Department

(LSB 1937SV.2, MDF)

FILED MARCH 1, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR

**SENATE FILE 422
FISCAL NOTE**

The estimate for Senate File 422 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 422 changes the maximum blood alcohol concentration while driving from .10 to .08. Persons found to be driving with a blood alcohol concentration of .08 or higher would violate the operating while intoxicated statute.

ASSUMPTIONS

1. Charge, conviction, and sentencing patterns will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
3. The law will become effective July 1, 1999. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system.
4. The marginal cost for adding one inmate to the prison system is \$12 per day.
5. The marginal cost of adding one offender to a residential facility is \$14 per day. Offenders will spend four months in a residential facility.
6. The marginal cost for one offender on probation or parole is \$1.53 per day. The cost of probation for six months for one offender is \$275.
7. Data is not available to estimate the length of stay in jail to estimate the cost to counties, however, the maximum length of time any one person can stay in jail is 365 days. The marginal cost to house one inmate in jail for a year is approximately \$5,100.
8. Defense costs (State Public Defender's Office) and prosecution costs are assumed to be the same: OWI 1st offense - \$750; OWI 2nd offense - \$1,000; OWI 3rd offense - \$1,200; vehicular homicide - \$3,800; and serious injury OWI - \$1,200.
9. The number of cases in which defendants will use a public defender versus hiring their own attorney is unknown.
10. The average cost of court time per day is \$389.
11. Judicial Branch costs were derived based on conviction rates.
12. Operating While Intoxicated (OWI) convictions will increase 4% at all levels.
13. Convictions for vehicular homicide and serious injury OWI will decrease by 7%.

CORRECTIONAL IMPACT

Senate File 422 will increase the admissions to the Department of Corrections programs and increase the admissions to county jails. The projected impact on

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admissions is as follows:

	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2004</u>
Jails	99	197	197
Probation/Parole	167	334	334
CBC Facilities	11	22	22
Prisons	3	6	6

Prison population will decrease by:

	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2004</u>
Prisons	0	-3	-9

FISCAL IMPACT

The fiscal impact of Senate File 422 is as follows:

State General Fund Impact:

	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2004</u>
Judicial Branch	\$408,000	\$824,000	\$824,000
Public Defender	Unknown	Unknown	Unknown
Probation/Parole	Unknown	Unknown	Unknown
Prisons	0	-13,000	-39,000
CBC Facilities	18,000	37,000	37,000
Total State	<u>\$426,000</u>	<u>\$848,000</u>	<u>\$822,000</u>

County Impact:

	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2004</u>
County Attorneys	\$229,000	\$458,000	\$458,000
Jails	Unknown	Unknown	Unknown

SOURCES

Department of Human Rights, Division of Criminal and Juvenile Justice
 National Highway Traffic Safety Administration
 State Public Defender's Office
 Department of Corrections

(LSB 1937SV, CRS)

FILED MARCH 29, 1999

BY DENNIS PROUTY, FISCAL DIRECTOR