

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** Senate Bill 1336 ( Committee Substitute S1336-CSSE-002)

**SHORT TITLE:** 1998 Governor's DWI Amendments

**SPONSOR(S):** Senators Odom, Forrester, Blust, Jenkins, McDaniel and Phillips.

**AMENDED NOTE. THIS NOTE PERTAINS TO THE VERSION OF SB 1336 GIVEN A FAVORABLE REPORT IN SENATE FINANCE ON JULY 30, 1998. IT ALSO REFLECTS ADDITIONAL COST DUE TO AMENDMENTS OF JULY 22, 1998 IN JUDICIARY. CHANGES ARE IN ITALICS (pages 1,5,6, and 14).**

**FISCAL IMPACT**

Yes (X)      No ( )      No Estimate Available ( )

There are several areas where this bill has a fiscal impact but dollar estimates are not available for all aspects. The dollar total below therefore understates the total dollar cost, particularly for AOC, due to the lack of data to project accurate costs in some areas.

(Note: R=recurring; NR=nonrecurring)

	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>
<b>GENERAL FUND</b>					
<b>REVENUES</b>					
DPI - R	\$45,000	\$60,000	\$60,000	\$60,000	\$60,000
<b>EXPENDITURES</b>					
DPI - R	\$28,900	\$39,883	\$41,239	\$42,558	\$43,963
DPI - NR	\$4,138				
Judicial - R	\$40,408	\$71,305	\$73,730	\$76,089	\$78,600
Judicial - NR	\$1,020				
Indigent Defense	\$17,710	\$30,360	\$30,360	\$30,360	\$30,360
<b>Total</b>	<b>\$92,176</b>	<b>\$141,548</b>	<b>\$145,329</b>	<b>\$149,007</b>	<b>\$152,923</b>
<b>NET IMPACT</b>	<b>\$47,176</b>	<b>\$ 81,548</b>	<b>\$85,329</b>	<b>\$89,007</b>	<b>\$92,923</b>
(expenditures minus revenue)					
<b>POSITIONS</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>
<b>HIGHWAY FUND</b>					
<b>REVENUE</b>					

DMV - R	(\$18,390)	(\$24,520)	(\$24,520)	(\$24,520)	(\$24,520)
<b>EXPENDITURES</b>					
DMV - R	\$6,107	\$9,042	\$9,946	\$10,828	\$11,766
<i>DMV - NR</i>	<i>\$58,574</i>				
Designated Agency R (note 1)	\$23,075	\$31,796	\$32,833	\$33,851	\$34,929
Designated Agency-NR	\$24,294	\$68,400			
<b>Total</b>	<b>\$112,050</b>	<b>\$109,238</b>	<b>\$42,779</b>	<b>\$44,679</b>	<b>\$46,695</b>
<b><i>NET IMPACT</i></b>	<b><i>\$130,440</i></b>	<b><i>\$133,758</i></b>	<b><i>\$67,299</i></b>	<b><i>\$69,199</i></b>	<b><i>\$71,215</i></b>
<b>(expenditures minus revenue)</b>					
<b>POSITIONS:</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>					
Judicial System, Division of Motor Vehicles, State Highway Patrol, Department of Public Instruction, Local Law Enforcement Agencies, and Local School Boards					
<b>EFFECTIVE DATE:</b> The provisions in Part I of the bill changing the DWI forfeiture law would become effective October 1, 1998 and would apply to offenses committed on or after that date. The new provisions allowing for increased options to release a seized vehicle through bonding, an innocent owner petition, a defendant owner petition, a lienholder petition, insurance proceeds and expedited pre-trial sales would apply to vehicles currently held on the effective date. Parts II, III, & IV for zero tolerance violations and immediate revocation for under 21 zero tolerance violations are effective December 1, 1998.					
Note 1: The bill requires the Governor to designate an agency to send seizure notifications. The estimate is the higher of the two estimates for the Division of Motor Vehicles and the State Highway Patrol as that designated agency. The estimates for each are in the body of the note.					

**BILL SUMMARY:**

Senate Bill 1336 would implement recommendations of the Joint Legislative Corrections and Crime Control Oversight Committee and the Governor's DWI Task Force. In general, the bill would (1) revise the DWI forfeiture laws and other related laws; (2) provide for expedited hearings of DWI's involving seized vehicles; (3) provide for zero alcohol tolerance for commercial drivers, school bus drivers, and day care vehicle drivers; and (4) provide for the immediate 30-day revocation of drivers licenses of persons under 21 violating zero tolerance. A more detailed summary of each part of the bill is included later in the fiscal note.

**ASSUMPTIONS AND METHODOLOGY:** Generally

This bill has four major parts. Each part has the potential to impact the following: the Judicial System (Magistrates, Clerks of Court, Trial Judges, Appellate Judges, Indigent Defense Attorneys, District Attorneys), the Division of Motor Vehicles, the

State Highway Patrol, local law enforcement agencies, the Department of Public Instruction, and local school boards. This fiscal note includes an analysis for each part of the bill. Included in the analysis for each part of the bill are the detailed bill summary and the assumptions & methodology for each agency impacted by that part.

In most cases, the estimated impact on each agency depends on the projected number of seized vehicles. The Department of Public Instruction reports that 2,337 vehicles were seized from December 1, 1997 through April 30, 1998, the first five months that the 1997 DWI Forfeiture Laws were in effect. Based on this activity, an average of 467 vehicles are seized monthly for a projected total of 5,604 by the end of the first year. **This analysis assumes that approximately 6,000 vehicles will be seized each year.**

A 2.7% inflation rate for operating cost is applied to future years. Also, inflation rates averaging 3.37% were applied to future years for salaries.

**SUMMARY OF EACH PART AND METHODOLOGY OF COST ESTIMATE**  
**(summary prepared by Judiciary Committee Counsel, Research Division)**

**PART I - DWI FORFEITURE AMENDMENTS**

**Bill Summary**

Part I of the bill (Sections 1 through 17) amends the DWI forfeiture law in seven major ways:

1. Expands coverage of the law.
2. Provides greater protections for innocent owners.
3. Provides more bonding options to obtain pre-trial temporary release of the vehicle to nondefendant owners.
4. Provides greater protections for lienholders.
5. Provides greater protections for school boards.
6. Clarifies the authority of law enforcement officers and magistrates in seizure situations.
7. Expedites the sale of some seized vehicles providing greater protections to all parties to avoid excessive storage costs.

**Section 1** expands the definition of offenses involving impaired driving to include first degree murder when based on impaired driving and habitual impaired driving.

**Section 2 (20-28.2)** expands the definition of "impaired driving revocation" to include revocations for habitual impaired driving, commercial driving while impaired, and all vehicular homicides involving impaired driving.

- Subsection (a1) includes in the definition of an "innocent owner" persons whose vehicle was reported stolen, persons who filed a police report for unauthorized use of

the vehicle, and persons who rent cars that are driven by a person not authorized on the contract as a driver.

- Subsection (b) permits a forfeiture hearing to be held either at sentencing, at a subsequent hearing, or at an expedited hearing held 60 days after the defendant fails to appear on the DWI charge and the order of arrest for failing to appear has not been set aside.
- Subsection (c1) provides that insurance proceeds due from a vehicle damaged in conjunction with the offense leading to the seizure are considered part of the value of the vehicle seized and the proceeds are made subject to forfeiture as well.
- Subsection (d) is amended to allow the court to order collected insurance proceeds to be paid to the county board of education and the rights to claim unpaid insurance proceeds assigned to the county board of education.
- Subsection (e) provides for the vehicle to be returned to an innocent owner, including a lessor, upon payment of towing and storage charges.
- Subsection (f) provides for the vehicle to be released to a lienholder if the vehicle owner is in default on the loan secured by the vehicle, to be sold in accordance with the repossession law, with any equity arising from the sale to be paid to the county board of education.

### **Section 3 (20-28.3)**

- Subsections (b) does not require the officer to seize a vehicle reported stolen or a rental vehicle driven by a person not authorized on the rental agreement, and together with (b1) removes from arresting officer the duty to notify the relevant parties of the seizure of the vehicle and transfers that responsibility to a state agency designated by the Governor.
- Subsection (c1) makes an order of seizure valid statewide and clarifies law enforcement's authority to effect the order of seizure.
- Subsection (d) allows custody of seized vehicles to be held either through a state or regional central storage arrangement, or if none is available, by the local county board of education. Storage fees are raised from \$5 per day to \$10 per day, and school boards are allowed to charge for storage if cars are held on school property. Private commercial towing companies are entitled to payment for towing and storage charges prior to releasing the vehicle, unless other arrangements are agreed to by the towing company.
- Subsection (e) expands the options for obtaining temporary release of a seized vehicle by a nondefendant owner pending trial by allowing property and bail bonds as collateral for the return of the vehicle at the forfeiture hearing.
- Subsection (e1) allows a pretrial determination of innocent owner status by petition. Upon the filing of the petition a court hearing will be set within 10 days, during which time the district attorney may authorize the release of the vehicle if the district attorney determines that the vehicle will not be subject to forfeiture.
- Subsection (e2) establishes a way for a defendant owner to have a pretrial hearing on the question of whether the vehicle is subject to forfeiture where the defendant contends that the defendant's license was not revoked for an impaired driving offense and the seizure was a mistake.

- Subsection (e3) allows the lienholder to petition for pretrial release where the owner is in default on the loan. The lienholder is allowed to sell the vehicle in accordance with the repossession law and any equity arising from the sale is to be paid to the county board of education.
- Subsection (h) provides for insurance proceeds to be seized pending forfeiture, allowing the school board attorney to negotiate the claim and allowing a vehicle determined to be a total loss to be released upon payment of the proceeds.
- Subsection (i) provides for several circumstances where a seized vehicle may be sold prior to forfeiture in order to mitigate excessive storage charges. Those situations include 1) where the owner consents to the sale, 2) after 90 days if the vehicle is worth \$1,500 or less, and 3) anytime the towing and storage charges equal or exceed 85% of the worth of the vehicle.
- Subsection (k) authorizes the school board attorney to take a more active and significant role in the forfeiture process.
- Subsection (l) provides that the defendant be taxed with the cost of towing and storage as part of the restitution for the criminal offense. *The Finance Committee amended this subsection on July 30, 1998 to specify that these costs are to be docketed as a civil judgment only if the defendant is sentenced to an active term or imprisonment or has their probation revoked or terminated.*
- Subsection (m) makes trials of DWI cases involving seized vehicles a higher priority and restricts grounds on which these cases can be continued to later dates.

**Section 4 (20-28.4)** makes conforming changes for other changes made in the bill.

**Section 5 (20-28.5).**

- Subsection (a) changes the sales process for forfeited vehicles from a judicial sale to a public sale with special notices as permitted for the disposal of surplus property by schools.
- Subsection (c) clarifies how much the county school board should pay other school boards in the county if the county school board retains the forfeited vehicle.

**Section 6** repeals restrictions on registration of vehicles for persons whose vehicles are forfeited. These provisions have been recodified in other sections of the law in Sections 9 and 10 of the bill.

**Section 8 (20-28.8 and 20-28.9)** clarify what information the clerk of court is required to report to DMV and authorizes the Department of Public Instruction to administer regional or statewide contracts for the towing, storage, and sale of seized and forfeited vehicles. It also clarifies that storage fees up to \$10 per day may be charged for storage under a statewide or regional contract and that a \$10 per vehicle administrative fee will be collected to defray the Department of Public Instruction's costs for administering this program.

**Sections 9 and 10 (20-54 and 20-54.1)** recodify restrictions on registration of vehicles for persons whose vehicles are forfeited.

**Section 12.1** requires DMV to modify the accident report form to provide for the investigative officer to indicate on the accident report if the vehicle involved in the accident was seized and subject to forfeiture.

**Section 14 (44A-2(d))** amends the mechanics lien statute to exempt seized vehicle towed or stored from the mechanics lien statute and provides for payment of towing and storage through the seizure and forfeiture process where these costs are required to be paid when the vehicle is release or paid from the proceeds of sale.

**Section 15 (44A-4(b)(1))** amends the mechanics lien statute to permit the lienholder to send the notice directly to a vehicle owner whose vehicle is subject to sale to satisfy an unpaid mechanics lien. Under existing law, DMV sends the notices.

**Sections 16 and 17 (58-71-1 and 58-71-35)** amend the bail bond statutes to allow bail bonds to be used to bond the release of seized vehicles.

### **Assumptions & Methodology - Judicial System:**

Several sections amend the existing law by increasing the options for pre-trial release of seized vehicles and streamlining the DWI forfeiture process. With these changes, many of the administrative tasks in the process will be placed on the clerks of superior court.

The workload for the clerks of court is expected to increase due to (1) broadening the offenses for which vehicles are subject to seizure (Sec. 3); (2) clarification of the process for pre-trial release to innocent parties (Sec. 3); (3) the addition of a mechanism for restitution payments to school boards (Sec. 3); (4) broadening of the definition of innocent parties (Sec. 2); (5) the increase in options for release of impounded vehicles (Sec. 4); and (5) the disbursement of insurance proceeds (Sec. 2). *The amendments in Finance Committee on July 30, 1998 lessened the impact on Clerks to some extent by limiting the instances where the cost of towing, storage and sale that exceed the proceeds of sale are to be docketed as a civil judgment against the defendant.*

There is no data available to project the number of new petitions, inquiries and hearings that will result from these changes nor the extent to which the workload will be distributed evenly around the state. If the 6,000 seized vehicles are distributed evenly throughout the year and among the 100 counties, there would be 1 seizure in each county each week. This impact could probably be absorbed within existing resources. However, it is more likely the seizures will be predominantly in certain urban areas and show some seasonality. Under this scenario, some counties would not be able to absorb the additional work.

**Section 8** adds new provisions for the clerk of superior court to report to the Division of Motor Vehicles all information required by the Division concerning the

disposition of seized and forfeited motor vehicles. These provisions may create additional responsibilities for the clerks since this information is not provided under current law. There also would be some impact on the court system because programming changes would be required to facilitate the exchange of such information between the clerks and the Division.

**FISCAL IMPACT:** There is a fiscal impact on the Judicial System but the dollar impact cannot be estimated reliably.

**Assumptions & Methodology - Agency Designated by the Governor:**

Under existing law, an officer who seizes a vehicle pursuant to the DWI Forfeiture Laws must send written notification to any vehicle owner who was not operating or present in the vehicle at the time of the seizure. The officer must also notify the Division of Motor Vehicles of the seizure. Sections 3(b) and (b1) of this bill would eliminate the officer's duty to notify the vehicle owner. Rather, the bill would require the officer to notify the Division and an agency designated by the Governor, as soon as practical but within 72 hours, that a motor vehicle has been seized. That agency must issue written notification of the seizure to any lienholder of record and to the motor vehicle owner who was not operating the vehicle or was not present at the time of the offense within 48 hours of receipt of notification from the charging officer. If the vehicle was damaged during the commission of the underlying offense or incident to seizure, that agency must also notify the insurance company of record.

The Governor has not yet designated the agency but the most likely choices are the Division of Motor Vehicles (Division) or the State Highway Patrol (Patrol). The work involved in this task should be very similar in either agency and will require one time modifications to either computer system and new ongoing clerical personnel. There are some important differences in the approach of each agency that could affect the costs.

***Assuming DMV is the Designated Agency:***

To implement this bill, the Division's current State Titling and Registration System (STARS)/DWI Subsystem must be revised to print notifications of DWI seizures for the owners and lienholders. Revisions to existing programs and the development of new programs would be required to provide for the automated generation of the seizure notifications. The Division estimates that 1,000 hours would be needed to complete the analysis, design, programming, testing, and implementation activity required to modify the subsystem. The total one-time cost is estimated to be \$88,400 over a two year period.

The Division estimates that 7 additional employees would be needed to process the notifications. Their estimate includes \$172,949 for salaries and benefits for 7 new

employees. It also includes \$68,641 for furniture, equipment, telephone system, and office space for 7 new employees; postage; and data processing fees.

The Division's estimate is based on the number of employees currently processing lienor notices of intent to sell (3 employees), the time it takes to process the notices (1 hour per notice file), their estimate that 10,000 vehicles will be seized annually, and their estimate that 9,700 vehicles will be subject to sell by lienors. Thus, the Division calculates the need for 7 additional employees as follows: 19,700 notices (10,000 seizure notices + 9,700 lienor notices) divided by 2,000 work hours per year/employee equals 9.85 employees less 3 current employees equals 7 additional employees needed.

The Fiscal Research Division estimates that only one additional Processing Assistant IV would be needed to process seizure notifications. This assumes an efficient automated system which would require minimal data entry. However, an additional year of experience may indicate the need for more clerical support. The personnel cost for the Processing Assistant IV effective October 1, 1998 is estimated to be \$18,530 with an annualized cost of \$24,707. The reasons for the difference in the two estimates are as follows. As noted above in the first paragraph under Assumptions and Methodology on page 2, the Fiscal Research Division estimates that 6,000 rather than 10,000 vehicles will be seized annually. Also, the Division's estimate did not reduce the processing necessary as a result of leanors issuing their own notices (a reduction from 9,700 to 7,200 per year). Less time should be required to process seizure notices than is required for lienor notices because processing seizure notices would be a more automated process than processing lienor notices. Also, the requirements for a seizure notice are substantially less than the requirements for lienor notices. For example:

- seizure notices are to be sent via first class mail whereas lienor notices must be sent by registered or certified mail, return receipt requested.
- Seizure notices are to be sent to the owner of record if he/she was not operating the vehicle or was not present at the time of seizure, any lienholder of record and to the insurance company of record if the vehicle was damaged. Lienor notices must go the person having legal title, any person with whom the lienor dealt, and any secured party who is actually known to the Division or who can be reasonably ascertained.
- The lienor notice must include more information which is more specific to the intent to sell than is required in the seizure notices.
- Lien notices involve processing of a fee from the lienor.
- A form to be returned by the recipient must be included in each lienor notice and the Division must provide the appropriate follow-up action for any form which is returned.

In addition to the personnel cost, the Fiscal Research Division estimates that \$10,354 would be needed for furniture, equipment, a telephone and line, and postage.



This estimate, differs from the Division's estimate, does not include the lease of office space or the installation of a new telephone system and has also been adjusted based on one additional person instead of seven.

**FISCAL IMPACT: HIGHWAY FUND**

1 Processing Assistant IV	\$18,530 R (effective 10/1/98) R
Annualized	\$24,707 R
Operating Cost	\$ 4,545 R (effective 10/1/98)
Operating Cost	\$ 4,294 NR
MIS Cost	\$88,400 NR
<b>TOTAL</b>	<b>\$115,769 (R &amp; NR effective 10/1/98)</b>

***Assuming the State Highway Patrol is the Designated Agency:***

As with the Division, implementation of this bill would require modifications to the Patrol's existing computer system. The Patrol currently sends notifications to registered owners of vehicles impounded by them. However, to send seizure notifications as required by this bill, the Patrol estimates the need for 7 additional technical positions (1 Systems Programmer I, 1 Telecommunications Technician III, 1 Applications Analyst Programmer II, and 4 Application Programmer I's) to create a new applications database and a wide area network capable of interfacing with local level entities. In addition to the technical positions, the Patrol estimates that it will need 4 clerical positions (1 Program Assistant V, 2 Processing Assistants IVs, and 1 Office Assistant IV) for support, data entry, error resolution, general office duties, filing, and mailings. Without the wide area network, the Patrol estimates the need for 8 clerical positions rather than 11 clerical and technical positions. The Patrol's estimate of the number of clerical positions needed is based on the assumption that they will verify data contained in Division's database rather than send the notifications to the most recent address contained in the Division's records.

The Patrol's total estimate for sending the seizure notifications with the establishment of the wide area network is \$730,942. The estimate includes personnel cost of \$454,788 for the 7 technical positions and \$145,282 for the 4 clerical positions. The estimate also includes \$124,565 in one-time cost for a modular office facility and work areas, printers, computers, and other data processing equipment and recurring cost of \$5,790 for postage. The Fiscal Research Division believes the Patrol's plan, although comprehensive and technologically advanced, goes beyond the requirements of the bill.

The wide area network capable of interfacing with local level entities included in the Patrol's estimate is not necessary for the implementation of this bill. Also, the Patrol plans to verify the data contained in the Division's records with other available information in the Department of Revenue, the Judicial System, etc. This verification process is beyond the current requirements of this bill which only requires the agency to send notifications to the lienholder and the registered owner at the most recent address in

the Division's system. Further, regardless of which agency is designated by the Governor, the Division has the responsibility for notifying insurance companies when the seized vehicle is damaged.

Currently, the Patrol has a system in place for sending notifications to owners of vehicles seized by the Patrol. The Patrol accesses the Division's database to retrieve the names and addresses of the registered owners. The data is then manually keyed into their database and the letters are automatically generated. The MIS Division of the Department of Transportation estimates that it can perform the programming necessary to modify the Patrol's existing database to allow online access to and transfer of all the Division data required to give notice, thereby eliminating the need to manually key data into the Patrol's system. The estimated cost for the programming is \$61,520.

Based on these factors, the Fiscal Research Division estimates that with the modification of the system to allow the transfer of information, only one Processing Assistant IV would be needed to process the seizure notifications. The personnel cost for a Processing Assistant IV effective October 1, 1998 is estimated to be \$18,530 with annualized cost of \$24,707. This assumes an efficient automated system which would require minimal data entry. However, an additional year of experience may indicate the need for more clerical support. In addition to the personnel cost, the Fiscal Research Division estimates that \$10,817 would be needed for furniture, equipment, and postage.

<b>FISCAL IMPACT: HIGHWAY FUND</b>	
State Highway Patrol:	
1 Processing Assistant IV	\$18,530 R (effective 10/1/98) R
Annualized	\$24,707 R
Operating Cost	\$ 5,760 R (effective 10/1/98)
Operating Cost	\$ 5,057 NR
Division of Motor Vehicles:	
MIS Cost	\$61,520 NR
<b>TOTAL</b>	<b>\$89,427 R &amp; NR (effective 10/1/98)</b>

**Assumptions & Methodology - Division of Motor Vehicles**

*Section 2* amends the existing law to require the Division of Motor Vehicles to determine the name of any insurance companies that are the insurers of record with the Division for the seized vehicle or that may otherwise be liable for repair to the vehicle if the vehicle was damaged. The Division must also notify the insurance company that the claim for insurance proceeds for damage to the seized vehicle shall be paid to the appropriate clerk of superior court.

Based on information provided by the Division, the Fiscal Research Division estimates that one additional Processing Assistant IV will be needed to perform this function. A substantial part of the workload will be devoted to determining the name and address of the insurance company of record or otherwise liable for the repairs because the insurance information required to send the notices may not be readily available to the Division. While the Division does require the registered owner to give the name of the insurance company when the vehicle registration is issued or renewed, the Division does not verify the validity and accuracy of the information and it does not maintain the names and addresses of insurance companies in its database. The names and addresses are maintained by the Department of Insurance. However, because of inconsistencies in the names used for insurance companies, direct match ups with the Department of Insurance database is extremely difficult. Further, the Division does not require the owner to give notice of changes in insurance companies. For these reason, determining the name and address of insurance companies may be a time consuming process which requires a full-time position.

The personnel cost for a Processing Assistant IV effective October 1, 1998 is estimated to be \$18,530 with annualized cost of \$24,707. In addition to the personnel cost, the Fiscal Research Division estimates that \$5,554 would be needed for furniture, equipment, a telephone and line, and postage. Although the Division has limited office space, we have not included office space in the cost. However, if the Division is the designated agency responsible for seizure notices, additional office space may be needed at an estimated cost of \$21,000 recurring and \$4,651 nonrecurring.

<b>FISCAL IMPACT: HIGHWAY FUND</b>	
1 Processing Assistant IV	\$18,530 (effective 10/1/98) R
Annualized	\$24,707 R
Operating Cost	\$ 945 R (effective 10/1/98)
Operating Cost	\$ 4,294 NR
<b>TOTAL</b>	<b>\$23,769 R &amp; NR (effective 10/1/98)</b>

*Section 15 (44A-4(b)(1)* amends the mechanics lien statute to allow a lienor to send notices of intent to sell a vehicle subject to sale to satisfy an unpaid mechanics lien. Currently, the Division sends the notices with respect to the mechanics liens.

During the 1996-97 fiscal year, the Division received 9,700 notices of intent to sell from lienors. The Division must send notices to each owner, lienholder and other affected parties by certified or registered mail, return receipt requested. The Division collects a \$10.00 fee from the lienor for each notice sent in by the lienor to cover mailing expenses. The Division sends an average of 3 certified letters for each notice.

The Division estimates that 25% of the lienors will send notices directly. Based on this estimate and prior years' activity, the Division estimates that it would process approximately 7,275 notices each year (75% of 9,700 lienor notices). Accordingly, the mailing cost for processing the notices would decrease by \$17,824 ((9,700 \* 2.45/letter \* 3 letters \* 25%) from \$71,295 to \$53,471. The revenue from the fees collected from the lienors would decrease by \$24,250 ((9,700 \* \$10.00/lienor \* 25%) from \$97,000 to \$72,750.

The Division estimates that the bill would have no impact on the personnel cost of sending the notices. Currently, three employees are responsible for processing notices. It takes approximately 1 hour to complete a notice file. Thus, each employee can process approximately 2,000 notices per year for a total of 6,000. The Division has fallen several months behind on notices. Therefore, the estimated reduction in workload due to allowing lienors to send notices directly will allow the employees to reduce the backlog of notices.

**FISCAL IMPACT: HIGHWAY FUND**

Expenditure	(\$13,368) effective 10/1/98; (\$17,824) annualized
Revenue	\$18,390 effective 10/1/98; \$24,520 annualized

**Assumptions & Methodology - Department of Public Instruction/Local School Boards**

*Section 8* authorizes the Department of Public Instruction to administer a regional or statewide contract for the towing, storage and sale of seized and forfeited vehicles. It provides for the assessment of a \$10 per day storage fee and a \$10 per vehicle administrative fee.

The Fiscal Research Division estimates that the Department of Public Instruction would need one additional Administrative Officer III to administer the contract. The personnel cost for the position effective October 1, 1998 is estimated to be \$28,900 with an annualized cost of \$38,534. The estimate for furniture and equipment is \$4,138. Based on the estimated number of vehicles seized annually, the Fiscal Research Division also estimates that fees collected under this section would generate \$60,000 (6,000 seized vehicles \* \$10.00 administrative fee/vehicle) in General Fund revenue on an annual basis to defray the cost of administering the contract.

Subsection 3(d) of the bill authorizes the county boards of education, in the absence of a statewide or regional contract, to contract with a commercial towing and storage facility or other private entity and to charge up to \$10 per day for storage. This subsection also authorizes county boards of education, in the absence of a statewide or regional contract to store vehicle on their property and to charge a reasonable fee up to

\$10.00 per day. These provisions may have a fiscal impact on the county boards of education if for example the actual cost differs from the per day charge. However, the dollar value of the impact cannot be determined on a county by county basis.

Other sections in this part of the bill provide greater protections for school boards by authorizing them to negotiate with insurance companies, directing clerks of court to pay insurance proceeds to them if the court orders seizure; authorizing expedited sale of vehicles, giving them the right to appear at forfeiture hearings and requiring defendants to pay restitution to them. No data is available to estimate the impact which these sections of the bill would have on school boards.

FISCAL IMPACT: (Statewide or throughout counties, depending on the contract)	
Revenue:	\$45,000 effective 10/1/98; \$60,000 annualized
Expenditure:	\$28,900 R (effective 10/1/98; \$38,534 annualized)
	\$4,138 NR
Also, there may be an additional impact on expenditures, but the estimate of the dollar amount is not available.	

## **PART II - ZERO TOLERANCE FOR COMMERCIAL DRIVERS**

### **Bill Summary:**

**Sections 18 through 24** amend the laws for commercial driving while impaired offense by reducing the permissible alcohol level from less than 0.04 to no alcohol at all. These sections also revoke a commercial drivers license for modified life (possibility of reinstatement after 10 years) for a second DWI conviction or for life without the possibility for reinstatement for a third or subsequent conviction of a commercial DWI offense.

### **Assumptions & Methodology - Judicial System**

These sections stiffen the penalty for DWI for Commercial Drivers in two ways. The bill reduces the permissible blood alcohol level for commercial driving from less than .04 to no alcohol at all. The bill also institutes a 1 year disqualification if a commercial driver has a DWI while driving a noncommercial vehicle.

The reduction in the permissible blood alcohol level for commercial driving will likely result in new cases and more strenuous defense of these cases. Based on data on blood alcohol content testing on commercial drivers, the Judicial System estimates a 17% increase in the number of cases (from 96 to 112), a 10 hour increase (from 5 to 15 hours) in court time per case for judges, deputy clerks and assistant district attorneys, and a 5 hour increase (from 5 to 10 hours) in preparation time per case for assistant district attorneys. The workload for clerks and judges would each increase by 1,200 hours in court time ((96 cases currently \* 10 hour increase/case) + 16 new cases \* 15 hours/case)). The workload for district attorneys would increase by 1,840 hours per year ((96 cases currently \* 5 hour increase in preparation time/case) + (16 new cases \* 10 hours of preparation time/case) + 1200 hours of court time for 112 cases). The increase in

workloads for judges and deputy clerks equates to .66 of a full-time position for each. The increased workload for the assistant district attorneys would require one additional position.

The Judicial System also estimates that defense attorney costs would increase. This estimate assumes a 33% indigency rate and that the increased workload for defense attorneys would be the same as the increased workload for assistant district attorneys. The estimated cost for defense attorneys is \$30,360 (33% \* 1,840 additional hours \* \$50/hour).

Also, the section of the bill which provides for a one-year disqualification from driving a commercial motor vehicle for a conviction of a regular DWI while driving a noncommercial vehicle is likely to have a substantial impact on the courts. However, because the Judicial System does not have any data indicating how many of the people convicted of regular DWI also drive commercial vehicles, the potential impact on the courts cannot be determined.

<b>FISCAL IMPACT:</b>	
1 District Attorney	\$41,428 (effective 12/1/98);\$68,894 annualized
Indigent Defense	\$17,710 (effective 12/1/98); \$30,360 annualized
Total	\$59,138 (effective 12/1/98); \$99,254 annualized

The resource needs are based on an aggregate, statewide basis as though the work were performed at a central location. In practice the workload will be spread throughout the state. The analysis also assumes the additional workload for judges and deputy clerks which equates to less than 1 position each can be absorbed within existing resources.

**Assumptions & Methodology - Division of Motor Vehicles**

This part of the bill reduces the permissible level of alcohol while driving a commercial vehicle from .04 to zero. The drivers license of any person charged with an offense subject to implied consent is subject to temporary and/or permanent revocation. The bill also allows for reinstatement of driving privileges and conditional driving privileges. Implementation of the bill would change the rules governing driving privileges. Therefore, program modifications to the Division’s computerized system are required to implement the bill. DMV estimates that modifications to the State Automated Driver License System to implement amendments to this section adopted July 22, 1998 would require about 590 hours of programming and testing. Based on \$80/hour for contractual services for programming this would cost \$47,200 non-recurring. There would be an additional \$7,080 in SIPPS charges related to implementation and testing of the revised system. .

**FISCAL IMPACT:** *There is an estimated one-time impact of \$54,280 on the Division of Motor Vehicles in 1998-99.*

**Assumptions & Methodology - Local Law Enforcement Agencies/State Highway Patrol**

This part of the bill reduces the permissible level of alcohol while driving a commercial vehicle from .04 to zero. Local law enforcement estimates that this change would not result in any additional stops for violations. However, the change may increase the offense for which the vehicle operator is charged and may, consequently, increase the time required for each incident. No data is available to estimate the dollar value of the impact and law enforcement assumes any impact would be negligible.

**FISCAL IMPACT:** None

**PART III - ZERO TOLERANCE FOR SCHOOL BUS DRIVERS AND OPERATORS OF CHILD CARE VEHICLES**

**Bill Summary:**

**Sections 25 through 29** make it illegal to drive a school bus or a child care vehicle with any alcohol in the body. Currently, operators of larger vehicles are required to have commercial drivers licenses and are subject to a 0.04 blood alcohol limit. This change would make zero tolerance applicable not to just commercial drivers but also operators of small vehicles for which a commercial drivers license is not required.

**Assumptions & Methodology - Judicial System**

This section reduces permissible blood alcohol level necessary for a DWI charge for drivers of school buses and child care vehicles from .04 to zero. While it is expected this will result in some new charges, there is no data available to project the increase and the Judicial System assumes negligible impact.

**FISCAL IMPACT:** None

**Assumptions & Methodology - Division of Motor Vehicles**

Same as for Part II.

**FISCAL IMPACT:** Same as for Part II.

**Assumptions & Methodology - Local Law Enforcement Agencies/State Highway Patrol**

Same as for Part II.

**FISCAL IMPACT:** Same as for Part II.

## **PART IV - IMMEDIATE REVOCATION FOR UNDER 21 DRIVERS**

### **Bill Summary**

**Sections 30 through 32** makes the immediate 30-day civil revocation of a drivers license for DWI offenses also applicable for violations of zero tolerance for drivers under age 21.

### **Assumptions & Methodology - Judicial System**

These sections provide for an automatic 30-day drivers license revocation for any driver under 21 years of age who is charged with an implied consent offense if results of a chemical analysis reveal the presence of any alcohol concentration at any relevant time after driving. During calendar 1997, there were 6,507 defendants charged with driving while consuming alcohol or within a relevant time after consumption. While this provision would apply to a substantial number of youthful drivers the short duration of the revocation may limit the frequency of hearings to contest these revocations or to request limited driving privileges. The Judicial System expects this provision to have an impact on the courts' workload. However, data is not available to estimate the impact in terms of hours of work or dollars.

**FISCAL IMPACT:** May be Impact; Estimate Unavailable

### **Assumptions & Methodology - Division of Motor Vehicles:**

This part of the bill provides for the 30-day revocation of drivers license of drivers under 21 years of age who are charged with an implied consent offense or who have any level of alcohol concentration within a relevant time after driving. As with Parts II and III, modifications to the Division's system are required to implement this part of the bill. However, estimates for the cost were not available at the time this fiscal note was prepared.

**FISCAL IMPACT:** There is an impact on the Division of Motor Vehicles, but the estimated dollar amount is not available.

### **Assumptions & Methodology - Local Law Enforcement/State Highway Patrol**

This part of the bill provides for the 30-day revocation of drivers license of drivers under 21 years of age who are charged with an implied consent offense or who have any level of alcohol concentration within a relevant time after driving. Local law enforcement estimates that this change would not result in any additional stops for violations. However, the change may increase the time required for each incident. No data is available is estimate the dollar value of the impact and law enforcement assumes negligible impact..

**FISCAL IMPACT:** None



## **PART V - MISCELLANEOUS PROVISIONS**

### **Bill Summary:**

**Section 35** authorizes the Department of Public Instruction to hire a part-time person to administer the statewide or regional towing and storage contract for seized vehicles.

### **Assumptions & Methodology:**

As discussed in Part I, the Fiscal Research Division estimates that one full-time Administrative Officer III would be needed to administer the statewide or regional towing and storage contract. The cost for the position is noted in Part I.

**FISCAL IMPACT:** See Part I.

### **TECHNICAL CONSIDERATIONS:**

DOT/MIS notes its current heavy workload and Year 2000 initiatives and proposes an implementation date of October 1, 2000. The analysis assumes the effective dates as outlined in the bill.

### **FISCAL RESEARCH DIVISION**

**733-4910**

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**DATE:** August 3, 1998



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