

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2115 - A

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

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Measure Description:

Expands the offense of driving while under influence of intoxicants to include being under the influence of any of five additional specified drugs.

Government Unit(s) Affected:

Department of Corrections, District Attorneys and their Deputies, Oregon Department of Transportation, Public Defense Services Commission, Department of Justice, Judicial Department, Oregon State Police, Oregon Criminal Justice Commission, Cities, Counties

Summary of Expenditure Impact:

Agency – Fund Type	2013-2015 Biennium	2015-2017 Biennium
Department of Corrections – General Fund		
Prison Cost	\$14,760	\$47,233
Special Payments to Counties	\$4,056	\$12,980
Total Cost	\$18,817	\$60,214
Agency – Fund Type	2013-2015	2015-2017
Public Defense Services Commission – General Fund	\$90,000	\$90,000

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

The -11 amendment broadens the definition of “intoxicant” to include intoxicating liquor, controlled substances, inhalants or any of the following drugs: amitriptyline, cyclobenzaprine, diphenhydramine, dextromethorphan, tramadol. Currently, a person may be charged with the offense of Driving Under the Influence of Intoxicants (DUI) if they are under the influence of alcohol, a controlled substance, an inhalant or any combination of the three. The measure will not have an impact on the number of DUI arrests conducted. DUI arrests are made because the driver is impaired; it is only after the arrest that a determination is made as to what substance (alcohol, controlled substance, inhalant, or non-controlled substance) caused the impairment. The broadened definition of “intoxicant” is repealed January 1, 2018. The measure is effective January 1, 2014.

According to the Drug Recognition State Coordinator, it is estimated that the measure’s expanding of the offense of DUI will result in approximately 100 additional DUI charges per year. Based on historical DUI conviction data, the Criminal Justice Commission (CJC) estimates that approximately 5% of the 100 additional DUI cases would result in felony convictions and that 43% of these felony convictions would result in incarceration with the remainder going to county community corrections. As a result, the Department of Corrections (DOC) estimates two additional inmates in DOC facilities per year with an estimated length of stay of 17 months, and three additional offenders per year in county community corrections departments with an estimated 14 months of supervision per biennium.

DOC estimates a three-month lag between the effective date and receipt of the first offenders. Included in the cost estimates in the above table are funds that would be distributed to the community corrections

departments of counties for costs of probation, post-prison supervision, and local control. DOC assumes any incarcerated inmates will be distributed into existing housing facilities and there would be no additional costs for staffing or construction. These cost estimates could vary depending on the actual number of cases, convictions and length of sentences issued.

The Public Defense Services Commission (PDSC) notes that the cost of representation for misdemeanors is \$350 and the average cost for representation of a Class C felony is \$750. PDSC also anticipates the need for scientific testimony related to chemical equivalency in cases that go to trial involving the drugs included in the definition of "intoxicant". Using the same case estimates from the Drug Recognition State Coordinator and CJC, the estimated cost per year for PDSC's could be as much as \$37,000 assuming all defendants qualified for court-appointed counsel with an additional \$8,000 for potential expert witness costs for a total estimate of \$45,000 per year.

There is a minimal fiscal impact to the Department of Transportation, Department of Justice, District Attorney's and their Deputies, Oregon State Police, and the Judicial Department as a result of this measure.