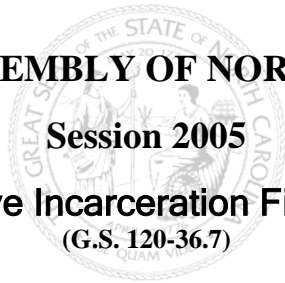


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 189 (Second Edition)

SHORT TITLE: All-Terrain Vehicle Regulation.

SPONSOR(S): Senator Purcell

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
GENERAL FUND					
Correction	Exact amount cannot be determined; no substantial impact anticipated.				
Judicial	Exact amount cannot be determined (see pg. 2 for details).				
Juvenile Justice	Exact amount cannot be determined; no substantial impact anticipated.				
LOCAL GOVERNMENTS					
	Exact amount cannot be determined (see pg. 2 for details).				
ADDITIONAL PRISON BEDS*			No additional prison beds anticipated.		
POSITIONS: (cumulative)					
	Exact amount cannot be determined; no additional positions anticipated.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; Local Governments					
EFFECTIVE DATE: October 1, 2005					
<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: This bill would amend Article 3 of Chapter 20 of the General Statutes by adding a new Part 10C regulating the sale and operation of all-terrain vehicles. The bill would:

- 1) Enact graduated age requirements for operating an ATV with specified engine capacities.
- 2) Prohibit carrying a passenger on an ATV not specifically designed to accommodate a passenger.

- 3) Require that all persons under age 16 be under continuous visual supervision by a person 18 years old or older while operating an ATV.
- 4) Prohibit the sale of an ATV for use by a person less than the minimum applicable age based on the engine capacity of the vehicle.
- 5) Require equipment standards of brakes, mufflers, and spark arresters for every ATV sold or operated in the State.
- 6) Prohibit the operation of an ATV a) without eye protection and a safety helmet, b) while under the influence of alcohol or drugs, c) in a careless or reckless manner, d) on a public street, road, highway, interstate, or limited-access highway, or e) during hours of darkness without a lighted headlamp and taillamp.
- 7) Require safety training and certification for all ATV operators.

A violation of the provisions regulating the age of the operator, the sale of certain ATVs to underage operators, or the operation of an ATV on public roads would be a Class 2 misdemeanor. A violation of any other provision under the new Part 10C would be an infraction subject to a fine of not more than \$200. *Source: Adopted from Bill Digest S.B. 189 (02/23/2005).*

ASSUMPTIONS AND METHODOLOGY:

General

This bill would create several new Class 2 misdemeanors related to the operation and sale of all-terrain vehicles. The legislation would principally impact court costs, as new Class 2 misdemeanor and infraction charges as well as juvenile petitions would be expected. Because Class 2 misdemeanants are housed in county jails, no additional prison beds would be anticipated due to this bill, and the fiscal impact to the Department of Correction would not be expected to be substantial. However, there would be an impact on local governments, which would incur the costs of incarcerating Class 2 misdemeanants.

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.*

Because this bill would create new offenses, the Sentencing Commission has no historical data from which to estimate the impact on prison population. As Class 2 misdemeanants are housed in county jails rather than state prison, the costs of incarceration resulting from this bill would be principally incurred by local governments. However, it is not known how many additional Class 2 misdemeanor convictions would occur due to this legislation, and the resulting impact to local governments cannot be determined.

- In FY 2003-04, 15 percent of Class 2 misdemeanors resulted in active sentences and the average active sentence lengths was 23 days.
- Offenders with active sentences of less than thirty days are housed in county jails at county expense.
- The remaining 85 and Class misdemeanants received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Corrections (DCC) would incur costs of \$1.87 per offender per day. Offenders sentenced to community service would cost \$0.67 per offender per day, and offenders given unsupervised probation would not impact DCC.

Because Class 2 misdemeanants serving active time as a result of this bill would be housed in county jails, this legislation would not impact prison population.

Department of Juvenile Justice and Delinquency Prevention

As several Class 2 misdemeanors created by this bill would apply to individuals under the age of 16, we would expect additional juveniles to be adjudicated delinquent for these offenses. However, delinquent adjudications for the proposed offenses would not be expected to have a significant impact on Youth Development Center (YDC) population, given that juveniles adjudicated delinquent for a minor offense (a Class 1 to 3 misdemeanor) can only be committed to a YDC if they have been adjudicated for four or more prior offenses.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Because the offenses created by this bill would be new, the Administrative Office of the Courts has no data from which to estimate the number of new charges that would arise. In addition to Class 2 misdemeanor charges, this bill would be expected to lead to new juvenile petitions and infractions to be settled by the Courts. AOC anticipates that there would be additional court and preparation time needed to process these charges, thus increasing district court workload. As the number of new charges that would result from this bill cannot be estimated, the associated fiscal impact cannot be determined.

Based on the costs of time in court, attorney preparation time, and indigent defense, the average estimated cost to process one Class 2 misdemeanor charge via trial is \$2,322. This cost includes an estimated \$1,373 in jury fees, costs of time in court, and attorney costs and an additional \$949

in indigent defense. However, based on prior-year data, the majority of any new Class 2 misdemeanor charges that are not dismissed are likely to be settled by guilty plea at an estimated cost of \$272 per plea.

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

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Aaron Paul and Jim Mills

APPROVED BY: James D. Johnson, Director
Fiscal Research Division



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Signed Copy Located in the NCGA Principal Clerk's Offices