

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 183 (Third Edition)
SHORT TITLE: Ban Cell Phone Use by School Bus Drivers.
SPONSOR(S): Representatives Saunders, Glazier, Goforth, and Rapp

Table with columns: FISCAL IMPACT, Yes (X), No (), No Estimate Available (), FY 2007-08, FY 2008-09, FY 2009-10, FY 2010-11, FY 2011-12. Rows include: GENERAL FUND Correction Recurring, Judicial Recurring, TOTAL EXPENDITURES, ADDITIONAL PRISON BEDS, POSITIONS, PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED, EFFECTIVE DATE, and a footnote.

BILL SUMMARY:

H 183. BAN CELL PHONE USE BY SCHOOL BUS DRIVERS. Filed 2/14/07.

Establishes GS 20-140.6 that makes it a Class 2 misdemeanor punishable by a fine of not less than \$100 for an individual to engage in a call on a mobile phone or use a digital media device while operating a public or private school bus that is in motion at the time of use. Provides exceptions if the use of the mobile telephone is solely for the purpose of communicating during an emergency situation. The 3rd edition makes the following changes to 2nd edition of this bill:

- Modifies proposed new GS 20-140.6 to add a definition for additional technology that includes any technology providing access to digital media such as a handheld camera, electronic mail, music, the Internet, or games.
- Identifies use of additional technology as another prohibited activity by school bus drivers and makes it an offense to engage in use of additional technology while operating a public or private school bus, or an activity bus, or while providing contracted services for a public or private school in any vehicle.
- Makes it a Class 2 misdemeanor to violate proposed GS 20-140.6 (was, Class 1).
- Amends the title to accurately reflect the bill

ASSUMPTIONS AND METHODOLOGY:

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing, or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill. There is a state estimate of 14,051 school bus drivers that would be subject to the content of this bill.

Given the proposed offense, any new charge or conviction will generate some additional fiscal impact. However, because the offense is new, there is no historical data from which to project the number of future charges and convictions. Although Fiscal Research cannot estimate the impact of this proposal, *the nature of the offense and corresponding punishment do not suggest a significant fiscal impact.*

Department of Corrections

G.S. 20-140.6 would make it illegal for a person to operate a public or private school bus or a public activity bus upon a public street or highway while using a mobile telephone or media device while the vehicle is in motion. There is an exception for calls made during emergency situations. Violation of this proposal would result in a Class 2 misdemeanor charge and a penalty fine of no less than \$100.

Because this bill creates a new criminal offense, there is no historical data from which to estimate the number of additional Class 2 misdemeanor convictions that might result. However,

since *Class 2 misdemeanants serve their designated terms of incarceration within local jails, there is no anticipated impact on the state prison population.*¹ The potential impact on local jail populations is unknown.

In FY 2005-06, 17% of Class 2 misdemeanor convictions resulted in active sentences, with an average estimated time served of 13 days. However, under Structured Sentencing, Class 2 misdemeanor active sentences may range from 1 to 60 days. Offenders serving active sentences of 90 days or less are housed in county jails.

The remaining 83% of Class 2 misdemeanants in FY 2005-06 received non-active, intermediate or community punishments. Thus, if new convictions were to occur, the Division of Community Corrections (DCC) could incur some additional costs for offenders placed under its supervision.

- Presently, general supervision of intermediate and community offenders by a probation officer costs DCC \$1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. DCC also incurs a daily cost of \$0.69 per offender sentenced to the Community Service Work Program.
- The daily cost per offender on intermediate sanction is much higher, ranging from \$7.71 to \$14.97 depending on the type of sanction.
- Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated \$14.97 per offender, per day; on average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

Judicial Branch

The Administrative Office of the Courts provides Fiscal Research with a fiscal impact analysis for most criminal penalty bills. For such bills, fiscal impact is typically based on the assumption that court time will increase due to anticipated increases in trials and corresponding increases in workload for judges, clerks, and prosecutors. Since the proposed bill creates a new violation, the Administrative Office of the Courts does not have any data from which to estimate the impact of this bill on the Judicial Branch. There are no estimates on the number of school bus drivers (approximately 14,051 statewide) who could be charged with this new violation and if charged, the number who would contest the violation or severity of the fine. For these reasons the Administrative Office of the Courts expects an increase in court time and costs as a result of the implementation of H 183.

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

¹ Active sentences between 1-90 days are served in local jails. The Department of Correction reimburses counties \$18 per day for offenders housed longer than 30 days (between 30 and 90). Sentences longer than 90 days are to be served in state prison; however, when bed shortages demand it, the State may lease needed beds from counties.

TECHNICAL CONSIDERATIONS: None

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DATE: May 16, 2007



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