

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 127

SHORT TITLE: Commercial DWI

SPONSOR(S): Senator D. Winner

FISCAL IMPACT: Expenditures: Increase ( ) Decrease ( )
Revenues: Increase ( ) Decrease ( )
No Impact (X)
No Estimate Available ( )

FUND AFFECTED: General Fund ( ) Highway Fund ( ) Local Fund ( )
Other Fund ( )

BILL SUMMARY: Amends the following statutes concerning DWI offenses to change the language regarding driving a commercial vehicle to "driving a commercial motor vehicle or any vehicle used in commerce and registered as a commercial vehicle": G.S. 20-16.2(a)(4) (information that must be given before a breath test is administered); G.S. 20-16.2(i)(2) (the right to request a chemical test after arrest); G.S. 20-16.5(b)(4) (license revocation of persons who refuse tests or commercial drivers with concentrations of 0.04 or more); G.S. 20-16.5(b1)(2) (recharge test results on the basis of revocation); and G.S. 20-138.2(a) and (c) (offense of impaired driving of commercial vehicle). Amends G.S. 20-141(a1) to provide that the offense of felony death by vehicle may be committed by impaired driving of a commercial vehicle.

EFFECTIVE DATE: October 1, 1993

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Department, Department of Correction

FISCAL IMPACT

Table with 5 columns: FY 93-94, FY 94-95, FY 95-96, FY 96-97, FY 97-98. Rows include EXPENDITURES (RECURRING, NON-RECURRING) and REVENUES/RECEIPTS (RECURRING, NON-RECURRING), all showing 0.

POSITIONS: No new positions

ASSUMPTIONS AND METHODOLOGY: This bill extends the applicability of the offense of driving a commercial motor vehicle while impaired (which specifies a blood alcohol threshold of .04) to include "any vehicle used in commerce and registered as a commercial vehicle." Thus, the .04 threshold for driving while impaired would apply to

drivers of vehicles that are registered as commercial vehicles but do not meet the technical weight requirements for commercial vehicles as specified in G.S. 20-4.01 and in federal regulations. (Note that currently, such drivers who have blood alcohol concentrations between .04 and .09 can be prosecuted under G.S. 20-138.1(a)(1) for driving "while under the influence of an impairing substance".)

Telephone discussions with representatives of the Division of Motor Vehicles (DMV) indicate that it is impossible to estimate the number of vehicles registered as commercial vehicles that are actually **used in commerce**. This is because the DMV does not have a code to designate said vehicles. Therefore, it is advised by the Administrative Office of the Courts (AOC) that no means exist to estimate the number of new prosecutions for impaired driving of a commercial vehicle.

In the absence of reliable data, the AOC predicts that this change would result in a small but unknown number of additional civil license revocations. The AOC acknowledges two factors which suggest that this bill would not bring many additional defendants into the court system. First, some individuals who would be affected by this change are undoubtedly being prosecuted for impaired driving under existing law, G.S. 20-138(1)(a). Secondly, other district court offenses (with the exception of infractions) charged at the same time as the proposed impaired driving offense would frequently bring these defendants into the court in any event.

Section 7 of the bill would amend G.S. 20-141.4(a1) to expand the definition of felony death by vehicle to include deaths caused by impaired driving in a commercial motor vehicle under G.S. 20-138.2. Such deaths can now be prosecuted as misdemeanor death by vehicle; therefore, new impaired driving cases of felony death by vehicle would be prosecuted in superior court rather than district court. The AOC assumes that this situation will undoubtedly arise from time to time, but will be rare overall. For 1991, the DMV reported that no drivers of commercial vehicles were arrested for driving while impaired in the context of a fatal accident. Even in light of this proposed revision that would include vehicles used in commerce and registered as commercial vehicles, the AOC assumes few additional cases. This assumption rests largely on DMV data that indicates there were only 14 fatalities involving drivers who tested at .04 to .09 in 1991. While it is unknown how many of the involved vehicles would meet the revised definition of a commercial vehicle, the potential number is clearly small.

Hence, it is not estimated that this bill will have a substantial fiscal impact on the Judicial Department. Likewise, since few additional defendants are likely to enter into the criminal justice system as the result of changing the language referring to commercial vehicles and since very few new felony cases are expected as the result of the expanded definition of felony death by vehicle, no significant fiscal impact is estimated for the Department of Correction.

**SOURCES OF DATA:** Division of Motor Vehicles, Administrative Office of the Courts

**TECHNICAL CONSIDERATIONS:** As noted by the Administrative Office of the Courts, Chapter 726, Section 19 of the 1991 Session Laws deleted the term "appreciably" in G.S. 20-138.2(a)(1). Note that Section 5 of the proposed bill contains this previously deleted term and does not underline the term to suggest that it was purposefully reinstated.

**FISCAL RESEARCH DIVISION**

**733-4910**

**PREPARED BY:** Brenda S. Beerman  
Carolyn H. Wyland

**APPROVED BY:** Tom Covington **TomC**

**DATE:** 5-APR-93

**[FRD#003]**

Official  
Fiscal Research Division  
Publication



**Signed Copy Located in the NCGA Principal Clerk's Offices**