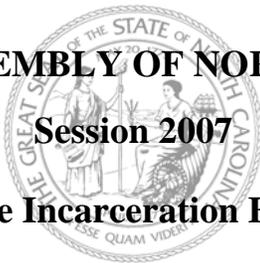


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 868 (Second Edition)
SHORT TITLE: Misbranding of Bottled Spring Water.
SPONSOR(S): Senator Apodaca

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>
GENERAL FUND					
Agriculture					
Correction	No significant fiscal impact is anticipated; however, the exact amount cannot be determined.				
Judicial					
Local Govt.					
TOTAL EXPENDITURES:	Amount cannot be determined.				
ADDITIONAL PRISON BEDS: (cumulative)*	None anticipated. Jail impact is indeterminate.				
POSITIONS: (cumulative)	None anticipated.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Department of Correction; Judicial Branch; Local Government; Department of Agriculture.				
EFFECTIVE DATE:	October 1, 2007.				
<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: Amends G.S. 106-130 to provide that water offered for sale as a beverage that is represented as spring water is misbranded unless it meets the definition of natural spring water. Amends G.S. 106-122 to prohibit the misbranding and the bottling, sale or delivery of misbranded water - violations of which are subject to injunction, and punishable by civil penalties

up to \$2,000 (G.S. 106-124.1), and conviction of a Class 2 misdemeanor (G.S. 106-122). Effective October 1, 2007.

*Senate committee substitute amends G.S. 106-130 to provide that water offered for sale as a beverage that is represented as North Carolina natural spring water (was, spring water) is misbranded, unless it meets the definition of North Carolina natural spring water (was, natural spring water). Also makes a conforming title change.

Source: *Bill Digest S.B. 868 (03/15/0200)*.

ASSUMPTIONS AND METHODOLOGY:

General

Given current resources, any new charge or conviction for the proposed offenses will generate some additional fiscal impact. However, *the nature of these offenses and proposed penalty level do not suggest a significant fiscal impact.*

Department of Correction

Because this bill creates new criminal offenses, there is no historical data from which to estimate the number of additional 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. Per Structured Sentencing, Class 2 active sentences may range from one to sixty days in length. Consequently, the Department of Correction could incur some additional costs for county reimbursement, though the typical sentence length suggests minimal impact.

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.

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.

Judicial Branch

Although the number of additional charges is indeterminate, the Administrative Office of the Courts expects that any additional caseload will increase court-time requirements and the associated costs of case disposal. Presently the estimated costs per Class 2 misdemeanor trial and plea are \$2,770 and \$230, respectively. These cost estimates account for indigent defense. However, actual costs may vary with time requirements and disposition.

Additional costs may also be incurred for any Court workload increase resulting from temporary or permanent injunction hearings in Superior Court, or appeals resulting from the assessment of civil penalties. It is not known how many such injunctions or appeals might occur.

Department of Agriculture

The Department of Agriculture regularly tests bottled water, including natural spring water. No additional testing will be required. However, no testing is available to determine the origin of the natural spring water, only that the natural spring water is properly labeled as determined by administrative code.

The Department cannot determine the number that may be mislabeled with this proposed legislation. Nor is there an estimate to the legal costs associated with any legal administrative proceedings.

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

TECHNICAL CONSIDERATIONS: None

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DATE: May 24, 2007



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