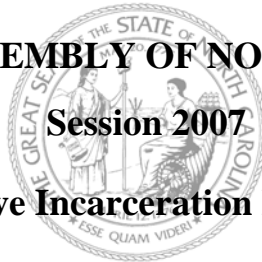


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1176 (Third Edition)

SHORT TITLE: Tyrrell County Hunting.

SPONSOR(S): Representative Owens

| | 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 | | | | | |
| Correction | | | | | |
| Judicial | | | | | |
| Local Govt. | | | | | |
| TOTAL EXPENDITURES: | | | | | |
| | Amount cannot be determined. | | | | |
| ADDITIONAL PRISON BEDS: (cumulative)* | | | | | |
| | None anticipated. Jail impact is indeterminate. | | | | |
| POSITIONS: (cumulative) | | | | | |
| | None. | | | | |
| PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: | Department of Correction; Judicial Branch; Local Government. | | | | |
| EFFECTIVE DATE: | October 1, 2007. *Applies only to Tyrrell County. | | | | |
| <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: H.B. 1176 provides several new restrictions pertaining to hunting within Tyrrell County. Specifically, this legislation provides for the following new criminal offenses: *Section 1:* The reckless use of a weapon – includes a firearm, bow and arrow, or crossbow – in a manner that poses a hazard to any person or property, or which involves the discharge of a firearm (sending a projectile across another’s property).

Section 2: The unlawful hunting, taking, killing, or attempt thereof, of any wild animal on, from, or across the right-of-way of a State-maintained road. Also includes the unlawful discharge of a firearm on, from, or across the right-of-way of a State-maintained road or highway.

Section 4: The unlawful possession of a loaded firearm, outside the confines of a vehicle's passenger area, while on the right-of-way of any State-maintained road or highway.

Section 5: The unlawful hunting, taking, or killing of any wild animal on the land of another person without the written permission of the landowner or lessee. Also includes the unlawful possession of a loaded firearm on another's property while outside the confines of a vehicle's passenger area.

The bill provides for certain exceptions to the offenses within Sections 2 and 5, and makes violation of the Act a Class 3 misdemeanor offense. H.B. 1176 applies only to Tyrrell County. Effective October 1, 2007.

The second edition makes technical changes and clarifies that violation of the act is a Class 3 misdemeanor offense, unless such conduct is covered by another provision of law specifying greater punishment.

The third edition (Senate committee substitute) clarifies that if a person has a concealed carry permit, the prohibition on possessing a loaded firearm on certain rights-of-way and highways does not apply.

Source: Bill Digest H.B. 1176 (03/28/0200)

ASSUMPTIONS AND METHODOLOGY:

General

Given current resources, any new charge or conviction that occurs for the proposed offenses will generate some additional fiscal impact. However, *the nature of the offense, proposed penalty level, and applicability only to Tyrrell County suggest minimal fiscal impact.* Accordingly, few additional charges and convictions are anticipated.

Department of Correction

Because the proposed offenses are new, there is no historical data from which to estimate the number of additional Class 3 misdemeanor convictions that might result. However, since *Class 3 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 the local jail population is unknown.*

In FY 2005-06, 23% of Class 3 misdemeanor convictions resulted in active sentences, with an average estimated time served of 8.5 days. Per Structured Sentencing, Class 3 active sentences may range from one to twenty days in length. Consequently, the Department of Correction would not incur any additional costs for county reimbursement.

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.

The remaining 77% of Class 3 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. Included below is a brief overview of DCC sanction costs, per offender:

- 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

Though the number of resultant Class 3 misdemeanor 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 3 misdemeanor trial and plea are \$2,770 and \$226, respectively.² Based on the proposed penalty level, *it is assumed that the majority of new Class 3 misdemeanor charges, which are not dismissed, will be settled via guilty 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: Bryce Ball

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: July 25, 2007



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² Cost estimates account for indigent defense; however, actual costs may vary with time requirements and disposition.