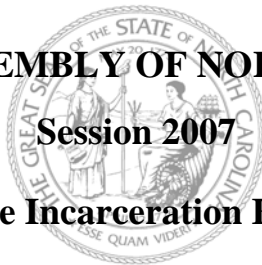


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 236 (Third Edition)
SHORT TITLE: Regulation of Professional Housemoving.
SPONSOR(S): Senator Jenkins

FISCAL IMPACT table with columns: Yes (X), No (), No Estimate Available (). Rows include GENERAL FUND (Correction, Judicial, DOT), EXPENDITURES, ADDITIONAL PRISON BEDS, POSITIONS, and EFFECTIVE DATE.

BILL SUMMARY:

Section 1: Rewrites G.S. 20-356 to define "actively engaged" and "unsafe practices" for the purposes of Article 16 of Chapter 20.
Section 2: Rewrites G.S. 20-358(1) to: (1) increase the age of eligibility for a housemoving license, from age 18 to 21; (2) require new applicants to provide sworn affidavits from previous licensed housemoving employers, detailing the applicants' full time experience and supervisory

duties; and (3) extend the length of requisite housemoving experience to at least five years - two of which must have been in a supervisory role.

Section 3: Rewrites G.S. 20-363 to require housemovers to obtain owner's approval before any property, real or personal (including mailboxes), other than that located in the right-of-way, may be moved.

Section 4: Amends G.S. 20-371 to make the following penalty changes: (1) second violation of Article 16 or any Department regulation governing housemoving is a Class 2 misdemeanor, with a possible fine of at least \$1,000; and, (2) third or subsequent violation is a Class 1 misdemeanor, with mandatory fine of at least \$2,000 per violation. Authorizes the State Highway Patrol to impound any conveyance or vehicle used during violation; the vehicle owner is responsible for paying any towing or storage fees for the impounded vehicle.

Section 5: Enacts new G.S. 20-374 (Unsafe operation and practices; unsettled judgments; review of existing license every 12 months), permitting the Department of Transportation to revoke all licenses and permits issued to a housemover that has engaged in unsafe practices or has two or more unsettled judgments filed in North Carolina. Directs that housemovers' licenses be reviewed at least once every 12 months.

Section 6: Effective for offenses committed on or after January 1, 2008.

Source: Adapted from Bill Digest S.B. 236 (02/20/0200)

The second edition of S.B. 236 makes the following changes to the first edition:

1. Revises the new punishment provisions in G.S. 20-371(a) to require (was, allow) a minimum fine of \$1,000 for second violation of Article 16, or of Department regulations.
2. Deletes new G.S. 20-374(d), which provided that violation of the section is not subject to the provisions of G.S. Chapter 150B (Administrative Procedure Act).
3. Makes several technical changes.

Source: Adapted from Bill Digest S.B. 236 (02/20/0200)

The third edition of S.B. 236 makes the following changes to the second edition:

1. Modifies proposed G.S. 20-356(5) to clarify that unsafe practices include either of the listed provisions.
2. Changes proposed G.S. 20-356(5)(a) to require that an act be determined by an enforcing agency or by a court to create a hazard, and changes proposed G.S. 20-356(5)(b) to include three crashes or collisions while moving houses if the mover is determined by a court to be at fault in the crash or collision. Makes technical changes.
3. Amends G.S. 20-358(1) to require applicants that have not been previously licensed to submit an affidavit to the Department of Transportation (DOT) from a certified public accountant that the applicant has documented employment records for five continuous years from a licensed housemover, in order to comply with the proof of creditable housemoving experience requirement. Also makes technical changes to the statute.
4. Amends G.S. 20-371(a) to make any violations of the article or of DOT's regulations governing housemoving a Class 1 misdemeanor (removes references to fines, different misdemeanor levels for subsequent violations, and provisions for the impoundment of vehicles).
5. Modifies proposed G.S. 20-374 to revoke licenses, permits, and authorizations for six months (was, revoke) when it is determined that a housemover has engaged in unsafe

practices or that a housemover has two or more unsettled judgments. Also requires licenses, permits, and authorizations to be cancelled (was, summarily revoked) if an individual or business is no longer engaged in housemoving or a partnership, firm, or corporation has been dissolved. Adds a provision allowing a housemover whose license, permit, or authorization has been revoked or cancelled to seek a review of the record by filing a motion with the Wake County Superior Court or the superior court in the county where the housemover does business.

Source: Adapted from Bill Digest S.B. 236 (02/20/0200).

ASSUMPTIONS AND METHODOLOGY:

General

Under current G.S. 20-371, any violation of the provisions of Article 16 or the regulations of the Department of Transportation adopted thereunder is a Class 3 misdemeanor, which may include a fine of no more than \$500. The third edition of S.B. 236 enhances the penalty for such offense to a Class 1 misdemeanor.

Given the proposed penalty enhancement, any new charge and/or conviction will generate some additional fiscal impact. However, the Administrative Office of the Courts presently does not maintain any specific offense code applicable to Article 16 of Chapter 20, indicating that offenses under this statute are infrequently charged and/or infrequently result in conviction. Accordingly, *based on the nature of offense and proposed penalty level, Fiscal Research does not anticipate a significant fiscal impact due to this proposed legislation.*

Department of Correction: Division of Prisons

Based on the most recent prison population projections and estimated available bed capacity, *there are no surplus prison beds available over the immediate five-year horizon or beyond.* Therefore, any new felony conviction that results in an active sentence will require an additional prison bed.

Because Class 1 misdemeanants serve their designated terms of incarceration within local jails, any resultant active sentence due to this proposal should not impact the state's prison population.¹ The potential impact on local jail populations is unknown.

Because there is presently no offense specific data, it is not known how many offenders might be subject to the proposed penalty enhancement. In FY 2005-06, 20% of Class 1 misdemeanor convictions resulted in active sentences, with an average estimated time served of 31 days. Consequently, to the extent that future convictions were to result in active sentences longer than 30 days, the Department of Correction could incur some additional costs for county reimbursement. However, the typical length for Class 1 misdemeanor active sentences does not suggest a significant increase in DOC reimbursements.

Department of Correction: Division of Community Corrections

In FY 2005-06, 80% of Class 1 misdemeanor convictions resulted in either intermediate or community punishments, predominantly special, intensive, or general supervision probation.

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.

Thus, if future convictions were to occur, the Division of Community Corrections (DCC) could assume some additional costs for offenders placed under its supervision. However, it is not known how many offenders would be sentenced to intermediate or community punishments, to which type, or for how long.

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. However, 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

There is no readily available data from which to determine the number charges that might occur for offenses under G.S. 20-371. However, the Administrative Office of the Courts expects that any penalty enhancement will be accompanied by more vigorous defense and prosecution, thereby increasing court-time requirements and workloads for district attorneys, district court judges, clerks, court reporters, and indigent defense counsel. The estimated differences in single trial/plea costs for Classes 1 and 3 misdemeanor offenses are shown below. Actual costs may vary from these general estimates, which include indigent defense costs. Furthermore, court-time requirements could also increase if additional requests for judicial review of a housemover’s record (for licensing) occur.

Table 1. Administrative Office of the Courts Cost Estimates Per Trial and Plea: FY 2007-08				
<i>Offense Class</i>	<i>Trial</i>	<i>Plea</i>	<i>Change in Cost: Trial*</i>	<i>Change in Cost: Plea*</i>
Class 3 Misdemeanor	\$ 2,770	\$ 226	N/A	N/A
Class 1 Misdemeanor	\$ 3,702	\$ 243	\$ 932	\$ 17

** Compared to prosecution at Class 3 misdemeanor level, as currently provided*

Department of Transportation

According to DOT, *this proposal is not expected to have a significant fiscal impact.* It is assumed that current staffing and resources would largely accommodate the proposed review procedures, and resultant processing workloads.

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

TECHNICAL CONSIDERATIONS: None

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