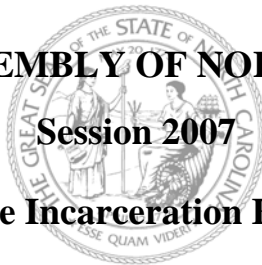


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 758 (Third Edition)

SHORT TITLE: Limited Driving Privilege - DWLR.

SPONSOR(S): Senator Kerr

		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>
REVENUES:	Number of future petitions and amount of potential revenue is indeterminate.					
EXPENDITURES:						
Correction	No significant impact.					
Judicial	Some increase in personnel workload and resource needs anticipated; number of future petitions, privilege violations, and resource needs is indeterminate.					
DMV	Amount cannot be determined.					
TOTAL EXPENDITURES:	Amount cannot be determined.					
ADDITIONAL PRISON BEDS: (cumulative)*	None expected. Possible, small impact on local jails.					
POSITIONS: (cumulative)	Number cannot be determined.					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Judicial Department; Department of Transportation; Department of Correction; Local Government.					
EFFECTIVE DATE:	Applies to revocations that occur before, on, or after December 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: Enacts new G.S. 20-20.1, permitting the issuance of limited driving privileges to persons whose NC driver's licenses are *currently* revoked under G.S. 20-28 (a) or 20-28.1. Sets out the standards under which limited driving privileges are authorized (including conditions that make a person ineligible for the privilege). Limits the purposes for which limited driving privileges may be authorized to travel: (1) to and from the person's employment and in the course of employment; (2) necessary for maintenance of the person's household; and, (3) emergency medical care for the person or for an immediate family member living in same household. Establishes standards for each purpose permitted, and requires a person applying for limited driving privileges to show proof of financial responsibility. Provides that the term of the limited driving privileges is the shorter of one year, or the length of time remaining in the revocation period imposed under G.S. 20-28(a) or G.S. 20-28.1. Requires the Division of Motor Vehicles to reinstate a person's license upon successful completion of the limited driving privilege – person must pay the \$50 restoration fee to DMV, as required by G.S. 20-7(i1). Specifies that violation of the privilege constitutes a violation of G.S. 20-28 – the Class 1 misdemeanor offense of driving while license revoked. Amends G.S. 7A-305 to establish a filing fee of \$100 to be charged for motions to obtain a limited driving privilege; provides that the fee is to be assessed in addition to court costs as provided by the statute (\$80 for District Court). Effective December 1, 2007, and applies to revocations that occur before, on, or after that date.

Source: Bill Digest S.B. 758 (03/13/0200).

ASSUMPTIONS AND METHODOLOGY:

Impact Statement: Based on the available data, exclusive criteria for the limited driving privilege, and inability to determine individual preferences among alternatives, Fiscal Research cannot estimate the potential revenues and costs of this proposal. *Therefore, although additional revenues and judicial workload are expected, these respective effects cannot reliably be quantified.*

I. ISSUANCE OF LIMITED DRIVING PRIVILEGES:

Under current law, a person whose license is revoked for one year for first offense under G.S. 20-28(a) or 20-28.1 may apply to DMV for license reinstatement after having served at least 90 days of the current revocation period.¹ A person whose license is revoked for two years for second offense under G.S. 20-28(a) or 20-28.1 may apply for reinstatement after having served at least one year of current revocation period. And a person whose license is revoked permanently under either statute may apply for reinstatement after having served at least three years of the “permanent” revocation period. Determinations of reinstatement are decided by a hearing before the Division of Motor Vehicles.

S.B. 758 creates a new civil procedure for the issuance of a limited driving privilege, to be conducted through District Court. In effect, the privilege constitutes an alternative to current license reinstatement procedures. Privilege eligibility for Groups 1 and 2 - first and second offenders under G.S. 20-28(a) or 20-28.1 – mirrors the respective time horizons for license reinstatement. In contrast, privilege eligibility for Group 3 – third or subsequent offenders under

¹ All persons subject to license revocation under G.S. 20-28(a) and G.S. 20-28.1 must serve the entire period of the underlying revocation before they may petition for license reinstatement. This eligibility criteria is maintained for the limited driving privilege in S.B. 758.

G.S. 20-28(a) or 20-28.1 – is set one year earlier than that for license reinstatement. Therefore, persons with permanent revocations could petition for a limited driving privilege after having served two years of the current revocation, rather than three as under current law. To obtain a limited driving privilege, a person would have to file a civil petition in District Court in the county of residence, as reflected by the Division of Motor Vehicles' records.

At this time, Fiscal Research cannot reliably evaluate how individual preferences will change in response to these options. Nor is it known how many people would be eligible to petition for the privilege within each group; how many would petition or erroneously petition (not eligible); or how the number of petitions would vary from year to year. Therefore, Fiscal Research cannot determine how many persons will petition for this limited driving privilege.

Judicial

Fiscal Research expects that the creation of a new civil action for the issuance of a limited driving privilege will increase court workload and require additional resources, contingent upon the number of hearings that result. However, because the number of petitions is unknown, FRD cannot estimate the resultant impact on District Court personnel (e.g. how many additional resources will prove necessary). Nonetheless, AOC staff estimate that each filing would require one additional hour of a judge's time and 30 minutes of a deputy clerk's.

Division of Motor Vehicles

It is not known how this proposal will alter the number of license reinstatement hearings requested of DMV. Likewise, the number of potential petitions is unknown. Therefore, potential workload and revenues are indeterminate.

II. VIOLATION OF LIMITED DRIVING PRIVILEGE

By establishing the new limited driving privilege, S.B. 758 also creates a new offense for violation of that privilege (G.S. 20-21(o)). Operation of a motor vehicle in violation of the proposed limited driving privilege constitutes the offense of driving while license revoked under G.S. 20-28, a Class 1 misdemeanor. The defendant's limited driving privilege is suspended until final disposition of the charge; and upon conviction, the offender's license is revoked pursuant to G.S. 20-28.

Department of Correction

Class 1 misdemeanants serve their designated terms of incarceration within local jails; therefore, the proposed offense is not expected to impact the state's prison population.² The potential impact on local jail populations is unknown.

In FY 2005-06, 20% of Class 1 misdemeanor convictions resulted in active sentences, with an average estimated time served of 31 days. Thus, to the extent that future convictions for the proposed offense were to result in active sentences longer than 30 days, the Department of Correction could incur some additional costs for county reimbursement. However, given the

² 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.

typical length for Class 1 active sentences, Fiscal Research does not anticipate a significant increase in reimbursements due to this proposal.

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. *Thus, if future convictions for the proposed offenses 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

The Administrative Office of the Courts expects that any additional caseload will increase court-time requirements, personnel workload, and the costs of case disposal. However, it is not known how many persons might apply for the limited driving privilege, or how many might violate its conditions. Presently, court-time costs are an estimated \$3,702 per Class 1 misdemeanor trial, and \$243 per plea. However, actual costs may vary from this general estimate.

SOURCES OF DATA: Administrative Office of the Courts; Department of Transportation, Division of Motor Vehicles.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Bryce Ball and Denise Thomas

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

DATE: May 9, 2007



Signed Copy Located in the NCGA Principal Clerk's Offices