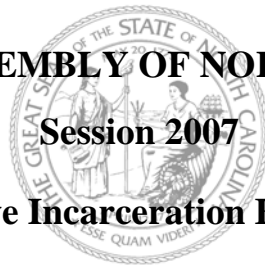


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 1246 (Second Edition)

SHORT TITLE: Prohibit Baiting of Bears.-AB

SPONSOR(S): Senator Jenkins

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>
GENERAL FUND					
Correction	No significant impact anticipated. See Assumptions and Methodology, p. 2-3				
Judicial	No significant impact anticipated. See Assumptions and Methodology, p. 3				
TOTAL EXPENDITURES:	Amount cannot be determined.				
ADDITIONAL PRISON BEDS*	None anticipated. Minimal impact on local jails.				
POSITIONS: (cumulative)	None anticipated.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Department of Correction; Judicial Branch; Local Governments.				
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. 113-294, which enumerates prohibitions on the taking, transport, possession, etc. of certain wildlife, to also prohibit the taking of bear through the use/aid of bait. Specifically, the bill declares it unlawful to place processed food products in any area of the state where the Wildlife Resources Commission has set an open season for taking black bear. Defines the term "processed food products" for the purposes of the subsection. Exempts the lawful disposal of solid waste; legitimate feeding of domestic animals, livestock, or birds; and, the release of dogs in the vicinity of any food source that is not a "processed food product" as defined. Provides that violation of the subsection constitutes a Class 2 misdemeanor offense. Effective July 1, 2007.

The second edition of S.B. 1246 makes the following changes to the first edition: 1) makes technical changes, and moves the effective date from July 1, 2007, to October 1, 2007; 2) changes the bill title to “AN ACT TO PROHIBIT PLACEMENT OF PROCESSED FOODS IN AREAS WHERE THE WILDLIFE RESOURCES COMMISSION HAS SET AN OPEN SEASON FOR TAKING BLACK BEARS.”

Source: Bill Digest S.B. 1246 (03/21/0200).

ASSUMPTIONS AND METHODOLOGY:

General

Under current G.S. 113-294(c1), it is a Class 1 misdemeanor offense if any person unlawfully takes, possesses, transports, sells, possesses for sale, or buys any bear or bear part. The offense is punishable by minimum fine of \$2,000, in addition to any other punishment prescribed, and each prohibited act constitutes a separate offense. S.B. 1246 expands the prohibition on the taking of bears by making it unlawful to place processed food products in any area of the state where the Wildlife Resources Commission has set an open season for taking black bear.

Given the proposed new offense, any new charge or conviction will generate some additional fiscal impact. However, because this offense is new, there is no historical data from which to project future charge or conviction frequencies. Nevertheless, *the nature of the offense and proposed penalty level, do not indicate a significant fiscal impact.*

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.

Class 2 misdemeanants serve their designated terms of incarceration within local jails; therefore, the proposed offense is not expected to impact the state’s 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. However, under Structured Sentencing, Class 2 misdemeanor active sentences may range from 1 to 60 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. But given the typical length for Class 2 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, 83% of Class 2 misdemeanor convictions resulted in either intermediate or community punishments, predominantly special, intensive, or general supervision probation. Accordingly, *if future convictions for the proposed offense were to occur, the Division of*

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.

Community Corrections (DCC) would likely 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

Because the proposed offense is new, there is no data from which to estimate the number of charges that might occur. Nevertheless, the Administrative Office of the Courts expects that any additional case will increase court-time requirements and the associated costs of case disposal. Specifically, the AOC anticipates increased workload for district attorneys, district court judges, clerks, court reporters, and indigent defense counsel. Presently, the estimated court-time costs per Class 2 misdemeanor trial and plea are \$2,770 and \$230, respectively. These cost estimates account for indigent defense.² Actual costs may vary with time requirements and disposition.

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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