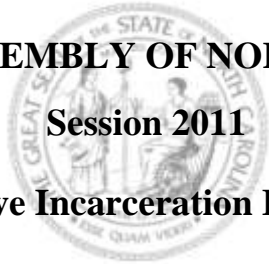


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2011

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 65 (First Edition)

SHORT TITLE: North Carolina Farmers Freedom Protection Act.

SPONSOR(S): Representative Bradley

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>FY 2015-16</u>
EXPENDITURES:					
Correction			<i>*See Assumptions and Methodology*</i>		
Probation			<i>*See Assumptions and Methodology*</i>		
Judicial			<i>*See Assumptions and Methodology*</i>		
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch					
EFFECTIVE DATE: This act is effective when it becomes law.					
<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:

Section 3 of the proposed legislation provides that all foodstuffs or products produced for the purposes of consumption, that are produced in and remain within the borders of North Carolina including the producers, the means of production, and the produce, will fall solely under North Carolina’s regulatory authority, and are not subject to federal regulation. Section 4 requires the packaging of all foods and produce that are produced in and remain within the borders of NC to be labeled “Made in North Carolina” or “Made in N.C.” Section 5 of the proposed legislation prohibits public employees at the federal, state, or local level from enforcing provisions of federal

law on foodstuffs and produce in intrastate commerce. Also, that section makes a violation of the provisions of the act a Class 1A misdemeanor. Section 6 authorizes the Governor and Attorney General to enforce the provisions of the act by seeking injunctive or other relief. *Source: Adopted from Bill Digest H.B. 65 (02/09/2011).*

ASSUMPTIONS AND METHODOLOGY:

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing, or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

Department of Correction

Since the proposed bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be convicted and sentenced under the proposed bill. In FY 2009-10, 32% of Class A1 misdemeanor convictions resulted in active sentences. The average estimated time served for Class A1 convictions was 46 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, convictions for this proposed offense would not be expected to have a significant impact on the prison population. The impact on local jail populations is not known.

Judicial Branch

The Administrative Office of the Courts (AOC) provides Fiscal Research with a fiscal impact analysis for most criminal penalty bills. For such bills, fiscal impact is typically based on the assumption that court time will increase due to anticipated increases in trials and corresponding increases in workload for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

AOC cannot project the number of charges that would result from the proposed legislation. In general, the monetary value of the impact of one non-traffic misdemeanor charge on the court system is \$131. This new misdemeanor is a Class A1 – the highest level of misdemeanor charge – and AOC was unable to identify a comparable offense to use as a basis of comparison for workload purposes. Therefore, AOC was unable to provide a more precise estimate of the potential impact of charges under the proposed legislation.

SOURCES OF DATA: North Carolina Sentencing and Policy Advisory Commission; Judicial Branch

TECHNICAL CONSIDERATIONS:

1. As no 1A misdemeanor classification exists in North Carolina, “Class A1 misdemeanor” was used in place of “Class 1A misdemeanor” throughout.
2. This legislation will become effective upon ratification. Generally, bills impacting criminal penalties are grouped together with an effective date of December 1, in order to allow the courts, law enforcement, and other entities adequate time for preparation and training and to streamline implementation of all criminal penalty bills.

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DATE: March 1, 2011



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