



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 4480 Amended by House Education and Public Works on March 22, 2018
Author: Taylor
Subject: Wireless Communication Devices
Requestor: House Education and Public Works
RFA Analyst(s): Gardner and Wren
Impact Date: March 28, 2018

Estimate of Fiscal Impact

	FY 2018-19	FY 2019-20
State Expenditure		
General Fund	\$0	\$0
Other and Federal	\$2,640	\$0
Full-Time Equivalent Position(s)	0.00	0.00
State Revenue		
General Fund	Undetermined	\$0
Other and Federal	\$0	\$0
Local Expenditure	\$0	\$0
Local Revenue	\$0	\$0

Fiscal Impact Summary

The amended bill modifies provisions related to the unlawful use of a wireless communication device while operating a motor vehicle by converting the existing civil fine to a criminal offense and altering the circumstances under which a driver may be stopped. The Judicial Department indicates that as magistrate and municipal courts will be responsible for hearing cases for driving under the influence of an electronic device (DUI-E), the amended bill will have no expenditure impact on the General Fund for the agency. There is no data available to estimate the number of additional hearings or trials that may be initiated in magistrate and municipal courts; however, we anticipate that any expenditure impact will be absorbed within existing resources.

The Department of Motor Vehicles (DMV) indicates that any expenses associated with technical support for setting up, testing, and supporting the current software system can be absorbed within current appropriations. The Department of Transportation (DOT) indicates that this bill will increase Other Funds expenses by \$2,640 in FY 2018-19 for placing signs at the eight points where interstates cross state lines.

The Commission on Indigent Defense indicates that it will absorb costs associated with any increase in caseloads within current resources. As the bill changes the penalty structure from \$25 per violation to \$100-\$300 for offenses of the unlawful use of a wireless communication device while driving, additional revenue may be generated; however, the lack of empirical data on ticketing and convictions makes it impossible to estimate the amount.

Explanation of Fiscal Impact

Amended by House Education and Public Works on March 22, 2018

State Expenditure

The amended bill modifies provisions related to the unlawful use of a wireless communication device while operating a motor vehicle. In addition to revising the definitions of certain related terms, the bill adds new circumstances that constitute the offense of driving under the influence of an electronic device (DUI-E), including holding a wireless communication device in hand while operating a motor vehicle on public streets and highways, typing or sending text-based communication while operating a motor vehicle on public streets and highways, and visually reading a text-based communication while operating a motor vehicle on public streets and highways. Exceptions are allowed for persons relaying information in the course of the operator's occupational duties, individuals driving an authorized emergency or law enforcement vehicle while acting in an official capacity, or using equipment or services installed or provided by the original manufacturer of the vehicle.

Currently, the offense of unlawfully using a wireless communication device while driving is punishable by a fine of not more than \$25 regardless of the number of offenses committed. The bill revises the penalty structure to require a fine of not more than \$100 for a first offense. The bill also establishes enhanced penalties for second and subsequent violations, which will carry a fine of \$300. The bill also removes the requirement that a law enforcement officer have probable cause that a violation of this provision has occurred in order to initiate a traffic stop.

The amended bill also requires DOT to place visible notification signs at every interstate highway ingress to advise motorist entering the state of the existence of this act.

Additionally, a law enforcement officer must issue only warning tickets for a driving while using an electronic device violation during the first sixty days after the effective date of this act. This act takes effect 120 days after approval by the Governor.

Judicial Department. The amended bill modifies existing provisions related to a person's operation of a motor vehicle while using an electronic communication device. It eliminates the current civil fine of \$25 for such charges and replaces it with the criminal offense of unlawful use of a wireless communication device while driving ("Driving Under the Influence of an Electronic Device," or DUI-E). The bill restructures the punishment for the offense to include a fine of \$100 for a first offense and a fine of \$300 for second and subsequent offenses. These offenses would primarily be heard in magistrate and municipal courts. In FY 2016-17, there were 1,199 civil fine cases filed in the courts for unlawful use of an electronic communication device while driving. As the bill converts a civil fine into a criminal offense and alters the circumstances under which a driver may be stopped for such an offense, there is no data available to estimate the number of additional hearings or trials that may be initiated. As magistrate and municipal courts will be responsible for hearing these cases, the bill will have no expenditure impact on the General Fund for the Judicial Department.

Commission on Prosecution Coordination. The commission reports that the bill may result in the generation of additional revenue due to the increase in the fines for violations related to

unlawful use of a wireless communication device while driving. However, as the bill alters the circumstances under which a driver may be stopped, and as the number of tickets that may be written for the revised offense is unknown, it is impossible to generate an estimate of increased revenue.

Commission on Indigent Defense. The commission reports that should the bill have an expenditure impact on the General Fund, it will absorb any additional costs within current resources.

Department of Motor Vehicles. The department indicates that any expenses associated with technical support for setting up, testing, and supporting the current software system can be absorbed within current appropriations.

Department of Transportation. The department indicates that there are eight points where interstates cross state lines. The cost for each sign, including installation, is \$330. Therefore, this bill will increase Other Funds expenses of DOT by \$2,640 in FY 2018-19.

State Revenue

Due to the lack of empirical data, including information on the patterns of citations and convictions for offenses of DUI-E, the state revenue impact of this bill on the General Fund is undetermined.

Local Expenditure

This bill amends existing provisions related to a person's operation of a motor vehicle while using an electronic communication device. It eliminates the current civil fine of \$25 for such charges and replaces it with the criminal offense of "Driving Under the Influence of an Electronic Device" (DUI-E) and changes the penalty to a fine of \$100 for a first offense and a fine of \$300 for second and subsequent offenses. These offenses would primarily be heard in magistrate and municipal courts. In FY 2016-17, there were 1,199 civil fine cases filed in the courts for unlawful use of an electronic communication device while driving. As the bill converts a civil fine into a criminal offense and alters the circumstances under which a driver may be stopped, there is no data available to estimate the number of additional hearings or trials that may be initiated. However, should there be an increase in caseloads, we anticipate that the magistrate and municipal courts will absorb any expenditure impact within current appropriations.

Local Revenue

N/A

Updated for Additional Agency Response on February 12, 2018

Introduced on January 9, 2018

State Expenditure

This bill amends provisions related to the unlawful use of a wireless communication device while operating a motor vehicle. In addition to revising the definitions of certain related terms, the bill adds new circumstances that constitute the offense of driving under the influence of an electronic device (DUI-E), including holding a wireless communication device in hand while operating a motor vehicle on public streets and highways, typing or sending text-based communication while operating a motor vehicle on public streets and highways, and visually

reading a text-based communication while operating a motor vehicle on public streets and highways. Exceptions are allowed for persons relaying information in the course of the operator's occupational duties, operators of authorized emergency or law enforcement vehicles while acting in an official capacity, operators licensed by the Federal Communications Commission while operating a radio frequency device, and operators of commercial motor vehicles otherwise regulated by federal law.

Currently, the offense of unlawfully using a wireless communication device while driving is punishable by a fine of not more than \$25 regardless of the number of offenses committed. The bill revises the penalty structure to require a fine of not more than \$100 for a first offense. The bill also establishes enhanced penalties for second and subsequent violations, which will carry a fine of \$300 and the assessment of two points against an offender's motor vehicle operating record. Accordingly, the Department of Motor Vehicles' point system for evaluation of the driving record of a vehicle operator will be expanded to include the two-point violations for second or subsequent violations of DUI-E. The bill also removes the requirement that a law enforcement officer have probable cause that a violation of this provision has occurred in order to initiate a traffic stop.

Previously, the Department of Public Safety has been required to maintain statistical information regarding citations issued for unlawfully using a communication device while driving. The bill requires both the Department of Public Safety and the Department of Motor Vehicles to maintain this information.

Judicial Department. This bill amends existing provisions related to a person's operation of a motor vehicle while using an electronic communication device. It eliminates the current civil fine of \$25 for such charges and replaces it with the criminal offense of unlawful use of a wireless communication device while driving ("Driving Under the Influence of an Electronic Device," or DUI-E). The bill restructures the punishment for the offense to include a fine of \$100 for a first offense and a fine of \$300 and a two-point assessment against a person's motor vehicle operating record for second and subsequent offenses. These offenses would primarily be heard in summary courts. In FY 2016-17, there were 1,199 civil fine cases filed in the summary courts for unlawful use of an electronic communication device while driving. As the bill converts a civil fine into a criminal offense and alters the circumstances under which a driver may be stopped for such an offense, there is no data available to estimate the number of additional hearings or trials that may be initiated. As local and municipal courts will be responsible for hearing these cases, the bill will have no expenditure impact on the General Fund for the Judicial Department.

Commission on Prosecution Coordination. The commission reports that the bill may result in the generation of additional revenue due to the increase in the fines for violations related to unlawful use of a wireless communication device while driving. However, as the bill alters the circumstances under which a driver may be stopped, and as the number of tickets that may be written for the revised offense is unknown, it is impossible to generate an estimate of increased revenue.

Commission on Indigent Defense. The commission reports that should the bill have an expenditure impact on the General Fund, it will absorb any additional costs within current resources.

Department of Motor Vehicles. The department indicates that any expenses associated with technical support for setting up, testing, and supporting the current software system can be absorbed within current appropriations. This section of the impact statement has been updated to include a response from DMV.

State Revenue

Due to the lack of empirical data, including information on the patterns of citations and convictions for offenses of DUI-E, the state revenue impact of this bill on the General Fund is undetermined.

Local Expenditure

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Local Revenue

N/A

Introduced on January 9, 2018

State Expenditure

This bill amends provisions related to the unlawful use of a wireless communication device while operating a motor vehicle. In addition to revising the definitions of certain related terms, the bill adds new circumstances that constitute the offense of driving under the influence of an electronic device (DUI-E), including holding a wireless communication device in hand while operating a motor vehicle on public streets and highways, typing or sending text-based communication while operating a motor vehicle on public streets and highways, and visually reading a text-based communication while operating a motor vehicle on public streets and highways. Exceptions are allowed for persons relaying information in the course of the operator's occupational duties, operators of authorized emergency or law enforcement vehicles while acting in an official capacity, operators licensed by the Federal Communications Commission while operating a radio frequency device, and operators of commercial motor vehicles otherwise regulated by federal law.

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Judicial Department. This bill amends existing provisions related to a person's operation of a motor vehicle while using an electronic communication device. It eliminates the current civil fine of \$25 for such charges and replaces it with the criminal offense of unlawful use of a wireless communication device while driving ("Driving Under the Influence of an Electronic Device," or DUI-E). The bill restructures the punishment for the offense to include a fine of \$100 for a first offense and a fine of \$300 and a two-point assessment against a person's motor vehicle operating record for second and subsequent offenses. These offenses would primarily be heard in summary courts. In FY 2016-17, there were 1,199 civil fine cases filed in the summary courts for unlawful use of an electronic communication device while driving. As the bill converts a civil fine into a criminal offense and alters the circumstances under which a driver may be stopped for such an offense, there is no data available to estimate the number of additional hearings or trials that may be initiated. As local and municipal courts will be responsible for hearing these cases, the bill will have no expenditure impact on the General Fund for the Judicial Department.

Commission on Prosecution Coordination. The commission reports that the bill may result in the generation of additional revenue due to the increase in the fines for violations related to unlawful use of a wireless communication device while driving. However, as the bill alters the circumstances under which a driver may be stopped, and as the number of tickets that may be written for the revised offense is unknown, it is impossible to generate an estimate of increased revenue.

Commission on Indigent Defense. The commission reports that should the bill have an expenditure impact on the General Fund, it will absorb any additional costs within current resources.

Department of Motor Vehicles. The Department of Motor Vehicles (DMV) indicates that they are seeking clarification on the requirement for the department to maintain statistical information regarding citations issued pursuant to this bill. DMV can currently produce statistics on citations adjudicated. If the intent is for DMV to develop the capability to analyze citations issued, there could be additional expenditures associated with additional personnel. However, until DMV

receives clarification on this portion of the bill, the expenditure impact is undetermined. Any other expenses associated with technical support for setting up, testing, and supporting DMV's software system can be absorbed within current appropriations.

State Revenue

Due to the lack of empirical data, including information on the patterns of citations and convictions for offenses of DUI-E, the state revenue impact of this bill on the General Fund is undetermined.

Local Expenditure

This bill amends existing provisions related to a person's operation of a motor vehicle while using an electronic communication device. It eliminates the current civil fine of \$25 for such charges and replaces it with the criminal offense of "Driving Under the Influence of an Electronic Device" (DUI-E) and changes the penalty to a fine of \$100 for a first offense and a fine of \$300 and a two-point assessment against a person's motor vehicle operating record for second and subsequent offenses. These offenses would primarily be heard in summary courts. In FY 2016-17, there were 1,199 civil fine cases filed in the summary courts for unlawful use of an electronic communication device while driving. As the bill converts a civil fine into a criminal offense and alters the circumstances under which a driver may be stopped, there is no data available to estimate the number of additional hearings or trials that may be initiated. However, should there be an increase in caseloads, the summary courts will absorb any expenditure impact on the General Fund within current resources.

Local Revenue

N/A



Frank A. Rainwater, Executive Director