

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 400

SHORT TITLE: DWI VEHICLE IMPOUND/CONFISCATION

SPONSOR(S): SENATOR ODOM

FISCAL IMPACT:	Expenditures:	Increase ()	Decrease ()
	Revenues:	Increase ()	Decrease ()
	No Estimate Available (X)		

BILL SUMMARY: "TO PROVIDE FOR THE IMPOUNDMENT OR CONFISCATION OF SOME MOTOR VEHICLES USED IN IMPAIRED DRIVING OFFENSE." Adds new G.S. 20-179.5 requiring that the motor vehicle driven by a defendant arrested for impaired driving be impounded immediately for 30 days when the arresting officer determines that the defendant (1) has a prior conviction involving impaired driving , (2) was driving with an alcohol concentration of 0.16 or more, or (3) willfully refused to submit to a chemical analysis at the request of the charging officer. When a defendant is convicted of impaired driving, requires judge to order that the motor vehicle driven by defendant be impounded for 60 consecutive days if (1) the vehicle was owned or co-owned by the defendant, or (2) the vehicle was driven by defendant with the consent of the owner. Makes towing and storage fees a lien on the vehicle and makes defendant or owner of the vehicle responsible for the fees unless there is proof that the vehicle was stolen. Adds new G.S. 20-28.3 providing that the motor vehicle driven by defendant at the time of an impaired driving offense becomes property subject to forfeiture if at the sentencing hearing under G.S. 20-179 the judge determines that (1) defendant is the owner or co-owner of the vehicle or that the vehicle was driven with permission of the owner, or (2) the grossly aggravating factor described in G.S. 20-179(c)(1) with two or more prior convictions applies. Requires state to notify any holder of a security interest in the vehicle or any owner of record other than defendant at least 14 days before a forfeiture hearing. Requires judge to order forfeiture if he or she determines at a hearing that (1) the vehicle is subject to forfeiture, (2) all potential innocent parties have been notified, and (3) no party has shown that he or she is an innocent party as defined in the act. When forfeiture is ordered, the vehicle is to be sold, with net proceeds going to the county school fund. Sets out procedure and standards whereby an innocent party may intervene and claim and establish a protected interest in the vehicle.

EFFECTIVE DATE: January 1, 1996

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Branch

FISCAL IMPACT

<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99
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<u>FY</u> 99-00			
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EXPENDITURES	NO ESTIMATE AVAILABLE
RECURRING	
NON-RECURRING	

REVENUES/RECEIPTS (*)	NO ESTIMATE AVAILABLE
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(*) Any revenues obtained from the sale of forfeited vehicles would be paid to the school fund of the county in which the property was seized.

ASSUMPTIONS AND METHODOLOGY: Judicial Branch

SECTION 1

Section 1 of the proposed bill adds new G.S. 20-179.5, which provides for the impoundment of a vehicle driven at the time of an impaired driving offense. If the arresting officer determines, upon the arrest of a defendant for impaired driving, that the defendant has a prior impaired driving conviction or a blood-alcohol concentration of 0.16 or more, or has willfully refused to submit to a chemical analysis, the vehicle shall be immediately impounded for 30 days. Upon the conviction of the defendant for impaired driving, the judge shall order the vehicle impounded for 60 consecutive days if the defendant had prior impaired driving conviction or had a blood-alcohol concentration of 0.16 or more, and if the defendant owned or co-owned the vehicle, or drove it with the owner's consent.

The additional court time that would be required as a result of Section 1 of the proposed bill cannot be estimated for the following reasons:

Additional parties, those with ownership or security interests in the vehicle, may attend the hearing and be heard on the issue of consent under G.S. 20-179.5(c). The Administrative Office of the Courts is unable to estimate how often this would occur, or the additional court time that would be required.

Owners who had not consented to the defendant's use of the vehicle would contest the impoundment provision under G.S. 20-179.5(a). Also, if the vehicle was stolen, the owner could contest the 30-day impoundment. The Administrative

Office of the Courts is unable to estimate how often this would occur, or the additional court time that would be required.

SECTION 2

Section 2 of the proposed legislation adds new G.S. 20-28.3 to provide for the forfeiture of a vehicle driven at the time of an impaired driving offense in certain situations. The vehicle is subject to forfeiture if the defendant owned or co-owned the vehicle, or drove it with the owner's permission, and if the defendant had two or more prior impaired driving convictions.

The Administrative Office of the Courts is unable to estimate the precise fiscal impact that Section 2 of the proposed legislation would have on the Judicial Branch.

There is not data available regarding the number of people who have two or more prior impaired driving convictions. The Administrative Office of the Courts does anticipate that there would be a large number of cases affected by the proposed legislation. However, without information relating to the number of prior cases, the Administrative Office of the Courts is unable to precisely estimate the fiscal impact that Section 2 of the proposed legislation would have on the Judicial Branch.

SOURCES OF DATA: Administrative Office of the Courts

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION (733-4910)

PREPARED BY: Whitney A. Obrig
Carolyn Wyland

APPROVED BY: Tom Covington **TomC**

DATE: May 23, 1995

[FRD#003]



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