

**NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE
(INCARCERATION NOTE G.S. 120-36.7)**

BILL NUMBER: House Bill 1373 (Second Edition)
SHORT TITLE: Increase Penalty-Transit Operator Assault
SPONSOR(S): Representative Saunders

	FISCAL IMPACT				
	Yes (x)	No ()	No Estimate Available ()		
	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>
GENERAL FUND					
Correction			Fiscal Impact, but cannot be determined		
Judicial			Fiscal Impact, but cannot be determined		
TOTAL EXPENDITURES:					
ADDITIONAL PRISON BEDS*			Bed Impact Possible for County Jails and Prisons but cannot be determined		
POSITIONS: (cumulative)					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Department of Correction; Judicial Branch, Local Jails				
EFFECTIVE DATE:					
<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:

May 11, 2004

H 1373. INCREASE PENALTY-TRANSIT OPERATOR ASSAULT. TO INCREASE THE CLASSIFICATION OF ASSAULTING A PUBLIC TRANSPORTATION OPERATOR FROM A CLASS 2 MISDEMEANOR TO A CLASS A1 MISDEMEANOR. Enacts new GS 14-33(c)(7) as title indicates. Effective Dec. 1, 2004.

May 25, 2004

H 1373. INCREASE PENALTY-TRANSIT OPERATOR ASSAULT. Intro. 5/11/04. House committee substitute makes the following changes to 1st edition. Clarifies that victim of assault may be public employee or private contractor employed as public transit operator.

Source: Bill Digest H.B. 1373 (05/11/2004)

ASSUMPTIONS AND METHODOLOGY:

Department of Correction/County Jails

NOTE: The original fiscal note on HB 1373, First Edition, indicated there would be no potential cost to the Department of Correction and that any increased active time resulting from this bill would be paid for by the counties. This assessment was incorrect. Increasing assault on transit operators from a Class 2 to a Class A1 misdemeanor could increase costs to DOC as discussed below. This cost, however, cannot be determined.

HB 1373 clarifies that assaults on public transit operators shall be considered Class A1 misdemeanors, not Class 2. This group is likely already covered under G.S. 14-33 but the bill clarifies this. HB 1373 also adds language ensuring that assaults on private contractors employed by public transit entities will also be charged as Class A1, not Class 2.

Increasing the penalty to A1 for assaults on private operators employed by public entities will increase costs at the local and state level, but there is no clear source of information or count of the number of private transit operators employed by public organizations. Nor is there accurate information on number of assaults on private transit operators employed by public entities. Therefore, we cannot determine the cost.

The basis for increased cost is primarily an increase in active prison or jail time. Class 2 misdemeanants cannot be given active time unless they are at Prior Record Level III. In practice only 15% of Class 2 misdemeanants receive active time. A1 misdemeanants can receive active sentences at any prior record level. In practice, 22% of Class A1 convictions resulted in active sentences with an average sentence of 53 days. Forty per cent of Class A1 offenders that assault public employees receive active time.

The potential costs, while not likely to be significant, include:

- Increased number of days in county jail for offenders. County jails pay per diem costs for all misdemeanants sentenced to 30 days or less.

- Increased number of offenders sentenced to 30 to 90 days in county jails. In this case, DOC will have to pay \$18 a day to house offenders sentenced to 30 to 90 days as required by current law. Under Class 2 penalties where offenders are sentenced to active time, the counties would pay most costs.
- A small percentage of offenders that will be sentenced to the State prison system at the cost of \$46 a day for minimum custody. This group would only be offenders at Prior conviction Level III.
- Increased DOC costs for community corrections, ranging from \$1.75 a day to \$10.06 a day depending on the sentence and sanctions applied.

ASSUMPTIONS AND METHODOLOGY:

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

The fiscal impact of HB 1373 cannot be determined but there will be increased court time and costs because of the increase in penalty.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; and, Office of State Construction.

TECHNICAL CONSIDERATIONS: It should be noted that this bill also adds public employee transit operators to G.S. 14-33. These employees may already be covered under G. S. 14-33 (c) (4) which makes assault on any public employee an A1 Misdemeanor. This addition to the bill does not affect the potential cost of the bill.

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DATE: June 16, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices