

Government of the District of Columbia
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Philip H. Mendelson
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi 
Chief Financial Officer

DATE: July 2, 2012

SUBJECT: Fiscal Impact Statement – “Comprehensive Impaired Driving and Alcohol Testing Program Amendment Act of 2012”

REFERENCE: Bill 19-777, Draft Committee Print Shared with the Office of Revenue Analysis on June 29, 2012

Conclusion

Funds are sufficient in the FY 2013 through FY 2016 budget and financial plan to implement the bill.

Background

The bill makes a number of changes to the way the District manages its impaired driving program and punishes related offenses. A significant portion of the bill reorganizes and clarifies existing District laws to ensure consistency of application of the law.

One significant provision of the bill is to amend the Anti-Drunk Driving Act of 1982¹ to increase the mandatory minimum sentences associated with first, second, and subsequent convictions for impaired driving offenses. In most cases, the bill increases by 5 days the minimum sentence for persons convicted with a blood alcohol concentration greater than 0.20 or 0.25. Additionally, the bill creates a new minimum sentence for persons convicted with a blood alcohol concentration of 0.30. The bill also establishes minimum sentences of 15 to 25 days if a person’s blood or urine contains a Schedule I² chemical or controlled substance.

Additional amendments to the Anti-Drunk Driving Act of 1982 address the admissibility of official test results in court. The bill ensures that breath, blood, and urine test results which reflect the level

¹ Effective September 14, 1982 (D.C. Law 4-145; D.C. Official Code § 50-2205.02 *et seq.*)

² As defined in the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-902.04).

The Honorable Philip H. Mendelson

FIS: Bill 19-777, "Comprehensive Impaired Driving and Alcohol Testing Program Amendment Act of 2012"

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of impairment are admissible as substantive evidence in court without expert testimony. However, amendments to the District of Columbia Implied Consent Act³ allow for a preliminary breath test to be administered to a person suspected of operating a vehicle while impaired in order to aid an arrest decision, but those results are not admissible in court.

Another important provision is the implementation⁴ of the District's breath test program, which is currently managed by the Department of Forensic Science.⁵ The bill requires the Office of the Chief Medical Examiner (OCME) to manage the program through September 30, 2012. Beginning on October 1, 2012, the Forensics Lab will oversee and issue regulations for the program, but will have the option to delegate some or all implementation responsibilities to OCME through a memorandum of agreement. Currently, OCME is responsible for only blood and urine testing.

Other provisions include establishing a minimum blood alcohol concentration of .04 for commercial vehicle operators, aligning the regulations and penalties associated with impaired operation of a watercraft with those for vehicles, and increasing a number of impaired driving fines.

Financial Plan Impact

Funds are sufficient in the FY 2013 through FY 2016 budget and financial plan to implement the bill. The provisions of the bill will have impacts on the Office of the Attorney General (OAG), the Department of Corrections (DOC), and the OCME. Any costs associated with implementation of the bill on OAG are minimal and can be absorbed in the agency's existing resources.

DOC will incur additional costs associated with the new mandatory minimum sentences imposed in the bill. An additional 5 days per inmate with an impaired driving related offense would impact approximately 600 inmates at a cost of \$137 per inmate per day for a total of \$411, 000. However, the varied nature of total inmate stays on impaired driving offenses allows for these costs to be absorbed in the agency's existing resources. For example, the average stay for offense in 2011 and 2012 was 45 and 30 days respectively. In this example, the reduction of 15 days generates savings sufficient to cover any costs associated with increased mandatory minimums.

Lastly, the bill imposes additional responsibilities on OCME with oversight of the breath test program. OCME is prepared for this duty and any costs associated are incorporated into the agency's budget. It is expected the Department of Forensic Science will delegate implementation of the program to OCME through a memorandum of agreement after October 1, 2012.

³ Approved October 21, 1972 (86 Stat. 1016; D.C. Official Code § 50-1901 *et seq.*)

⁴ Implementation includes testing the breath test equipment once every 3 months, training for law enforcement personnel, maintenance of equipment and records associated with the program.

⁵ As authorized in the Department of Forensic Sciences Establishment Act of 2011, effective August 17, 2011 (D.C. Law 19-18; D.C. Official Code § 5-1501.07).