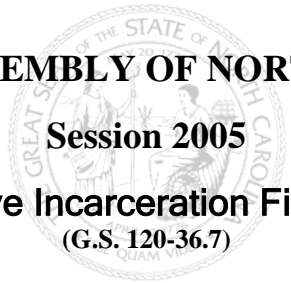


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 355 (Second Edition)<sup>1</sup>

SHORT TITLE: Restrict Use of Blue and Red Vehicle Lights.

SPONSOR(S): Representatives McGee and Rapp

| FISCAL IMPACT   |                   |                   |                           |                   |                   |
|---|-------------------|-------------------|---------------------------|-------------------|-------------------|
|   | Yes (X)           | No ( )            | No Estimate Available ( ) |                   |                   |
|   | <u>FY 2003-04</u> | <u>FY 2004-05</u> | <u>FY 2005-06</u>         | <u>FY 2006-07</u> | <u>FY 2007-08</u> |
| <b>GENERAL FUND</b>   |                   |                   |                           |                   |                   |
| <b>Correction</b>   |                   |                   |                           |                   |                   |
| <b>Judicial</b>   |                   |                   |                           |                   |                   |
| <b>LOCAL GOVERNMENTS</b>  |                   |                   |                           |                   |                   |
| <b>ADDITIONAL PRISON BEDS*</b>  |                   |                   |                           |                   |                   |
| <b>POSITIONS: (cumulative)</b>  |                   |                   |                           |                   |                   |
| <b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Correction; Judicial Branch; Local Governments  |                   |                   |                           |                   |                   |
| <b>EFFECTIVE DATE:</b> December 1, 2005   |                   |                   |                           |                   |                   |
| <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:** This bill amends G.S. 20-130.1 to specify that forward-facing red and blue vehicle lights installed on a vehicle after initial manufacture are included in the current prohibition of red and blue vehicle lights. The second edition eliminates specific references to windshield washer lights and blue lights placed on a vehicle dash similar in appearance to those used by law enforcement. Possession or use of these lights in violation of this statute would be a Class 1 misdemeanor.

<sup>1</sup> Changes to the second edition of the bill do not affect the fiscal impact assessment from the first edition.

## **ASSUMPTIONS AND METHODOLOGY:**

### **General**

The Administrative Office of the Courts (AOC) notes that offenders could arguably be charged under current G.S. 20-130.1 for possession of the types of lights prohibited by this bill. However, there is no evidence to indicate that offenders are presently being charged for possession of these lights. As such, additional charges and convictions would be expected to result from this bill.

Due to lack of data regarding the number of vehicles in operation with these lights, it is not possible to estimate the number of offenders eligible to be charged under this legislation. Likewise, because this legislation expands the scope of an existing offense, there is no historical data from which to estimate the number of additional charges and convictions that might occur due to this bill. However, because of the small number of charges and convictions for similar offenses under existing law, the fiscal impact associated with this bill is not expected to be substantial.

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

### **Department of Correction**

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.*

Because this bill would expand the scope of an existing offense, the Sentencing Commission has no historical data from which to project the impact that this legislation would have on prison population. In FY 2003-04, there were 179 convictions under existing G.S. 20-131.1. No data is available regarding how many, if any, of these convictions were for possession of the types of lights specifically prohibited by this bill. Also, due to lack of data regarding the number of vehicles in operation with forward-facing red and blue lights, it is not possible to estimate the volume of offenses that might be committed under this bill.

- In FY 2003-04, 19 percent of Class 1 misdemeanors resulted in active sentences and the average active sentence length was 43 days.
- Offenders with active sentences of less than ninety days are housed in county jails.
- DOC reimburses counties for housing offenders between thirty and ninety days at a rate of \$18 per day per offender. If, for example, one offender were sentenced to 43 days active time as a result of this bill, costs to DOC to reimburse the county would be \$774.
- The remaining 81 percent of Class 1 misdemeanants received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Correction

(DCC) would incur costs of \$1.87 per offender per day. Offenders sentenced to community service would cost \$0.67 per offender per day, and offenders given unsupervised probation would not impact DCC.

Because most Class 1 misdemeanants serving active time as a result of this bill would be housed in county jails, this legislation is not expected to significantly impact prison population.

### **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.

In calendar year 2004, AOC data indicates that 1,032 defendants were charged under current G.S. 20-130.1 for unlawful use of red and blue vehicle lights. No data exists regarding how many, if any, of these charges were for possession of the lights prohibited by this bill. Because we cannot estimate the number of offenses that would be committed under this legislation, we are unable to quantify the number of new charges that the Court system would handle.

Based on the costs of time in court, attorney preparation time, and indigent defense, the average estimated cost to process one Class 1 misdemeanor is \$5,000 per trial and \$219 per guilty plea. The trial cost includes an estimated \$2,627 in jury fees, costs of time in court, and attorney costs and an additional \$2,373 in indigent defense. Based on prior-year data, the majority of any new Class 1 misdemeanor charges are likely to be settled by plea.

**SOURCES OF DATA:** Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission

**TECHNICAL CONSIDERATIONS:** None

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Fiscal Research Division



**DATE:** April 14, 2005

**Signed Copy Located in the NCGA Principal Clerk's Offices**