

February 12, 2015

The Honorable John Barker, Chairperson
House Committee on Judiciary
Statehouse, Room 149-S
Topeka, Kansas 66612

Dear Representative Barker:

SUBJECT: Fiscal Note for HB 2159 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2159 is respectfully submitted to your committee.

Under current law, a habitual violator is a person who, within the immediately preceding five years, has been convicted three or more times of certain driving-related offenses in Kansas or any other state. Presently, when the offense is driving under the influence (DUI) or refusing to submit to a test to determine the presence of alcohol or drugs, a diversion agreement is included as a conviction for purposes of determining habitual violator status. HB 2159 would eliminate diversion agreements from inclusion as a conviction.

An expungement of a conviction that was used to initiate a habitual violator revocation would be prohibited from being used as a basis for rescinding an already imposed revocation or serving as a defense to pending charges from operating a motor vehicle while driving privileges were revoked.

HB 2159 would reduce the number of years a person must wait before petitioning for expungement for felony DUI violations and test refusal violations from ten years to seven. The provision would apply to city ordinances that constitute felony DUI violations and test violations under state law. The bill would also have the effect of reducing the wait period for expungements associated with misdemeanor DUI violations from ten years to three years.

According to the Department of Transportation, HB 2159 would cause Kansas to be out of compliance with federal law. Federal law currently requires a state to look back a minimum of five years for repeat DUI offenders. The bill would reduce the time period in which records could be available from ten years to three years. Being in noncompliance in this way would require that 2.5 percent of the state's core highway construction funds for the National Highway Performance Program and the Surface Transportation Program be transferred to safety programs

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to address alcohol-impaired driving or hazard elimination. It is estimated that \$8.2 million would be transferred from federal highway constructions funds to federal safety funds.

The Office of Judicial Administration indicates that the bill could result in some additional motions within existing cases and some additional appellate cases. However, it is not possible to predict the number of additional court cases that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined.

The League of Kansas Municipalities notes that there may be a fiscal effect on cities; however, the specific effect cannot be determined because it is difficult to estimate in what ways the provisions of the bill would affect local government finances.

The Department of Revenue states that the bill would have no fiscal effect on agency operations. Any fiscal effect associated with HB 2159 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Jack Smith, KDOR
Mary Rinehart, Judiciary
Willie Prescott, Attorney General's Office
Larry Baer, LKM
Melissa Wangemann, KAC