Local Mandate Fiscal Impact Estimate Kentucky Legislative Research Commission 2015 Regular Session

Part I: Measure Information

Bill Request #: 498
Bill #: HB 123 GA
Bill Subject/Title: AN Act relating to driving under the influence
Sponsor: Representative John Tilley
Unit of Government: x City x County x Urban-County Unified Local x Charter County x Consolidated Local x Government
Office(s) Impacted: local jailers
Requirement: X Mandatory Optional
Effect on Powers & Duties: X Modifies Existing Adds New Eliminates Existing

Part II: Purpose and Mechanics

HB 123 GA amends KRS 189A.010. KRS 189A.010 prohibits a person operating or being in physical control of a motor vehicle while under the influence of a substance or combination of substances which impair driving ability (KRS 189A.010 (1)(c); while the presence of a listed controlled substance is detected in the blood (KRS 189A.010 (1)(d)); or while under the combined influence of alcohol and any other substance which impairs driving ability (KRS 189A.010(1)(e). HB 123 GA attempts to clarify the law and to remove barriers to the use of results of laboratory blood tests in certain DUI criminal prosecutions.

Under current law, laboratory blood test results are inadmissible to show the presence of a controlled substance if the blood sample used in the test was obtained from the defendant more than two hours after the defendant ceased to operate or control a motor vehicle (KRS 189A.010 (1)(d)); or if the defendant has a prescription for the controlled substance (KRS 189A.010 (4)(b)(known as the "prescription defense").

HB 123 GA amends KRS 189A.010 to add subsection (2)(b) to provide that if the blood sample was obtained more than two hours after the defendant ceased operating or controlling a motor vehicle, though it may not be used as evidence of a violation of KRS

189A.010 (1)(d)(as evidence of the presence of a controlled substance), it may be used as evidence of violation of KRS 189A.010(c)(operation or control while actually under the influence of a substance or combination of substances which impair one's driving ability), or a violation of KRS 189A.010(1)(e)(operation or control while actually under the combined influence of alcohol and any other substance which impairs one's driving ability). HB 123 GA similarly amends KRS 189A.0010 (4)(b) to provide that if the defendant had a valid prescription for the controlled substance, though the blood test results may not be used to show a violation of KRS 189A.010 (1)(d)(as evidence of the presence of a controlled substance), it may be used as evidence of violation of KRS 189A.010(c)(operation or control while actually under the influence of a substance or combination of substances which impair one's driving ability), or a violation of KRS 189A.010(1)(e)(operation or control while actually under the combined influence of alcohol and any other substance which impairs one's driving ability).

Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

The fiscal impact of HB 123 GA on local jails is expected to be minimal.

HB 123 GA may result in a minimal number of additional DUI convictions and so should have minimal fiscal impact on expenses or revenues of local jailers.

Data Source(s): LRC staff; Kentucky County Attorneys Association.

Preparer: Mary Stephens **Reviewer:** MCY **Date:** 1/28/15