

“not more than” 30 days and/or a fine. Subsection (2)(b) would impose separate, tiered penalties for operation while under the influence of alcohol or drugs. The fines for this offense and potential jail time would be greater than under current law and would, in fact, be the same as those imposed under KRS 189A.010 for DUI. The first conviction of BUI could result in 48 hours up to a maximum of 30 days in jail, plus a fine. A second conviction would mandate seven days to six months in the county jail. Conviction of a third offense would result in a mandatory minimum of 30 days and maximum 12 months in jail. A person convicted of a second or subsequent offense may also be sentenced to community labor for ten days up to a maximum of 12 months. The bill would classify a fourth or subsequent conviction for operating under the influence a Class D felony.

HB 291 would limit the look back period for prior offenses to five years. This means that each prior offense would “fall off” and not be considered for purposes of enhancing penalties for subsequent offenses after five years.

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

The fiscal impact of HB 291 is expected to be minimal.

According to law enforcement the incidence of repeat violations of KRS 235.240 for boating under the influence is low and, therefore, the impact of HB 291 would be expected to be minimal.

Under current law there is no potential jail time for a first or second offense BUI. HB 291 would allow the possibility of jail time for a first offense and mandatory jail time for a second or subsequent offense. Therefore there is some possibility of increased incarcerations under the bill. Local governments are responsible for the incarceration costs of persons convicted of a misdemeanor and those charged with a misdemeanor who does not post bail. A person convicted of a Class B misdemeanor may be incarcerated for up to 90 days. A person convicted of a Class A misdemeanor may be incarcerated for up to one year. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day.

When a court denies bail to a Class D felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case. Again, while the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day. Upon sentencing, a Class D felon is housed in one of Kentucky’s full service jails for the duration of his or her sentence. The Department of Corrections pays a jail \$31.34 per day to house a Class D felon. Since the per diem pays for the estimated average cost of housing a Class D felon, the per diem may be less than, equal to, or greater than the actual housing cost.

Data Source(s): Louisville Metro Police Department and Code Enforcement, LRC staff

Preparer: Mary Stephens **Reviewer:** MCY **Date:** 2/19/15