

**Local Mandate Fiscal Impact Estimate  
Kentucky Legislative Research Commission  
2016 Regular Session**

**Part I: Measure Information**

**Bill Request #:** 84 R1

**Bill #:** HB 117

**Bill Subject/Title:** AN ACT relating to driving under the influence

**Sponsor:** Representative Jim DuPlessis

Unit of Government:  City  County  Urban-County  
 Charter County  Consolidated Local  Unified Local Government

Office(s) Impacted: Jailer, county attorney

Requirement:  Mandatory  Optional

Effect on Powers & Duties:  Modifies Existing  Adds New  Eliminates Existing

**Part II: Purpose and Mechanics**

KRS Chapter 189A prohibits operation of a motor vehicle while under the influence of alcohol or drugs (DUI). Under current law the legal consequences (fines, jail time, license revocation, etc.) for violation of this and other DUI-related offenses are increased for each offense that occurs within a 5 year period (the “look back” period). The purpose of HB 117 is to establish that a person may be charged with DUI first offense, and subject to the statutory consequences for a first offense, only once in a lifetime, no matter how many years between the first DUI and the second. Under the bill, where any prior DUI conviction occurred more than 5 years prior, the next offense would be a DUI second (even if the prior conviction was for DUI second, third or fourth offense) and be subject to the more stringent statutory consequences for that offense, i.e. fine *and* mandatory jail time of 7 days to 6 months, potential community labor, license revocation for up to 18 months, and ignition interlock device required for 12 months regardless whether aggravating circumstances were present.

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

**HB 117 would have a moderate to substantial impact on local governments.**

The cost of operating a county jail represents one of the largest impacts on fiscal court budgets. The majority of DUI convictions are for first offenses for which there is no mandatory jail time. Between January 1, 2015 and December 22, 2015 there were 15,682 convictions for first offense DUI in Kentucky. It is not known how many of those violators had a prior DUI conviction outside the 5 year look back period so was not “counted” to enhance the 2015 conviction. As an indication, though, one local county attorney’s office reports that, from November 2013 to November 2014 there were 327 convictions for DUI first offense in its jurisdiction. Of those 327 convictions 91, or 28% of the defendants had at least one conviction for a DUI occurring more than 5 years prior. Under HB 117 the 91 earlier DUIs would have been captured to render the 2015 conviction one for DUI second offense and called for mandatory jail time of 7 days to 6 months. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day. If the 91 DUI first convictions had been captured as DUI second convictions, those defendants would have equaled cumulatively a mandatory minimum additional 637 days (7 days x 91 inmates) in the local jail. At \$31.34 per day, the minimum additional cost would be \$19,963.58 (\$31.34 per day x 637 days) in the one jurisdiction.

While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average of \$31.34 per day.

Given the mandatory jail time for multiple DUIs, HB 117 would have a significant impact on staffing capacity of county attorneys’ offices. In some jurisdictions the majority of jury trials scheduled are for DUI cases where a defendant is facing mandatory jail time because of multiple DUI offenses. A significant increase in jury trials would exacerbate staffing problems in county prosecutors’ offices.

**Data Source(s):** Administrative Office of the Courts; Kentucky Association of County Attorneys

**Preparer:** Mary Stephens      **Reviewer:** JWN      **Date:** 1/12/16