Local Mandate Fiscal Impact Estimate Kentucky Legislative Research Commission 2017 Regular Session

Part I: Measure Information

Bill Request #: 1032					
Bill #: HB 221					
Bill Subject/Title: AN ACT relating to driving under the influence					
Sponsor: Representative Robert Benvenuti III					
Unit of Government:xCityxCountyxUrban-CountyxCharter CountyConsolidated LocalGovernment					
Office(s) Impacted: Jails					
Requirement: <u>x</u> Mandatory Optional					
Effect on Powers & Duties: <u>x</u> Modifies Existing Adds New Eliminates Existing					

Part II: Purpose and Mechanics

The purpose of HB 221 is to enhance the consequences of a subsequent conviction for driving under the influence of alcohol or drugs (DUI) in certain circumstances regardless how many years ago the prior DUI occurred. KRS Chapter 189A prohibits operation of a motor vehicle while under the influence of alcohol or drugs. Under current law the consequences for violation of this and other DUI-related offenses are increased for each offense that occurs within 10 years (the "look back" period) after the first DUI.

Section 1 (5)(e) of HB 221 would amend KRS Chapter 189A.010 to change the wording but retain the "look back" period of 10 years for capturing prior DUI offenses, except that a DUI that occurred with any aggravating circumstance listed in KRS 189A.010 (11) would enhance the consequences for a subsequent DUI no matter how long ago the DUI with aggravating circumstance occurred.

The aggravating circumstances listed in subsection (11) are: driving more than 30 miles per hour above the speed limit; driving in the wrong direction on a limited access highway; causing an accident resulting in death or serious injury; driving with breath alcohol concentration of 0.15 or greater; refusing to submit to a blood, breath, or urine test, and DUI while transporting a passenger under age 12.

Section 1 (10) of the bill would make HB 221 apply retroactively to DUIs occurring prior to the effective date of the bill.

Section 2 of the bill would make conforming amendments to KRS 189A.070 regarding license revocation for DUI offenses.

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

The fiscal impact of HB 221 on local governments would be indeterminable but negative.

DUI first offense has no mandatory jail time, unless an aggravating circumstance listed in KRS 189A.010 (11) is present while the person was driving under the influence.

HB 221 would result in an unknown number of additional misdemeanor convictions for DUI 2nd offense. Under HB 221 local jails would house some additional DUI defendants who, under current law, would have spent no time in jail because their prior DUI occurred more than 10 years before. Those who instead are convicted of DUI 2nd offense because the prior offense occurred with an aggravating circumstance would spend a minimum of seven days to a maximum of six (6) months in one of Kentucky's 76 full service jails or five (5) life safety jails.

While the expense of housing inmates varies by jail, the estimated impact of \$31.34 per day is based on the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. While the majority of misdemeanor defendants are granted bail, those who do not will cost local jails an average of \$31.34 per day. Therefore, each additional DUI 2nd offender will cost a local jail a minimum \$219.38 for seven (7) days to a maximum \$5641.20 for 180 days (six (6)) months in jail.

The number of additional inmates that would be incarcerated and for how long is not determinable.

Data Sources: Department of Corrections; LRC Staff;

Preparer:	Mary Stephens	Reviewer:	KHC	Date:	3/9/17