

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

Part I: Measure Information

Bill Request #: 952 _____

Bill #: HB 261 HCS _____

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

Sponsor: Representative Jim DuPlessis _____

Unit of Government:	<input checked="" type="checkbox"/> City	<input checked="" type="checkbox"/> County	<input checked="" type="checkbox"/> Urban-County
	<input checked="" type="checkbox"/> Charter County	<input type="checkbox"/> Consolidated Local	<input checked="" type="checkbox"/> Unified Local Government

Office(s) Impacted: Jailer _____

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 statutes are increased for each offense that occurs within a 10 year period (the “look back” period). The purpose of HB 261 is to establish that a person may be charged with DUI first offense, and subject to the more lenient statutory consequences for a first offense, only once in a lifetime, even if the previous DUI was more than 10 years before the subject DUI.

HB 261 HCS makes substantial changes to the wording of the bill but maintains its intent that a DUI first offense, no matter how long ago it occurred, will always enhance the consequences for a subsequent DUI conviction.

Under current law, a DUI occurring more than 10 years after the previous DUI is treated as a DUI **first** offense and the consequences are the same as for a DUI first offense, including a minimum fine of \$200 or jail for a minimum forty-eight hours, driver’s license revocation for a minimum 30 days, and drug or alcohol education or treatment program for a minimum of 90 days. HB 261 HCS would amend KRS 189A.010 (5)(a)-(e) to delete the language describing DUI first, second, third and fourth as those occurring “within a ten

(10) year period” for the purpose of enhancing consequences on conviction. The bill would amend KRS 189A.010 to define “prior offense” for the purpose of enhancing consequences for subsequent DUI convictions as:

1. All first offenses no matter when the offense was committed
2. All offenses committed with any aggravating circumstance listed in subsection (10) of KRS 189A.010; and
3. All offenses committed within a ten (10) year period.

The effect would be that a person would be subject to the more lenient consequences of a DUI first offense only once in his or her lifetime; thereafter, that offender’s next DUI, whether it occurred eight (8) years later or 16 years later, would be punishable at least as a DUI second offense, including a minimum fine of \$350, minimum jail time of seven (7) days, driver’s license revocation for a minimum twelve (12) months, drug or alcohol education or treatment for 12 months, and a vehicle ignition interlock device for a minimum of 12 months.

Sections 3 and 4 of HB 261 HCS would also limit to one first offense in a person’s lifetime failure to have and use a functioning ignition interlock device on his or her car when ordered to have such device and would identify as prior offenses those identified in Section 1, above. That offender’s next failure to have and use an ignition interlock device, no matter when it occurred, would be punishable as a Class A misdemeanor including license revocation for one (1) year. In addition, if the person who failed to use an ignition interlock device was also driving under the influence at the time, they would be punished for a Class D felony.

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

The fiscal impact of HB 261 HCS on local governments is indeterminable.

DUI first offense has no mandatory jail time, unless an aggravating circumstance listed in KRS 189A.010 (11) is present while the person was operating or in physical control of a motor vehicle. The likely result of HB 261 HCS is that local jails would house some additional DUI and ignition interlock device defendants who, under current law, would have spent no time in jail because their prior offense occurred more than 10 years before. It is likely that the bill would result in more DUI second offense convictions. Those who under current law would have been punished for a DUI first offense and instead are convicted of DUI or ignition interlock device second offense, a Class A misdemeanor, would spend a minimum of seven days to a maximum of six 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 also cost local jails an average of \$31.34 per day. Therefore, one DUI second offense offender will cost a local jail a minimum \$219.38 for seven (7) days to a maximum \$5,641.20 for 180 days (6 months) in jail.

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

Data Sources: Department of Corrections

Preparer: Mary Stephens **Reviewer:** KHC **Date:** 2/24/17