



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number: H. 4617 Prefiled on November 16, 2023
Author: Hixon
Subject: Xylazine
Requestor: House Medical, Military, Public, and Municipal Affairs
RFA Analyst(s): Gardner and Griffith
Impact Date: December 4, 2023

Fiscal Impact Summary

This bill creates the felony offense of unlawful production, manufacture, distribution, or possession with intent to produce, manufacture, or distribute xylazine for a use other than a nonhuman use. This felony offense is punishable by imprisonment for not more than ten years or a fine of not more than \$15,000, or both. The bill also creates the misdemeanor offense of knowingly or intentionally possessing xylazine, an offense punishable by imprisonment for not more than 180 days or a fine of not more than \$500, or both. The bill does allow for some exceptions related to compounding of the drug and its use in nonhuman species.

Judicial reports that implementation of the bill may result in an increase in general sessions court caseloads, which can be managed using existing staff and appropriations. Therefore, the bill will result in no expenditure impact for Judicial. Also, the Commission on Prosecution Coordination and Commission on Indigent Defense may increase the workload of the agencies. Both agencies anticipate being able to manage the increase with existing staff and within existing appropriations. However, if this bill results in a significant increase in the workload, the agencies will request an increase in General Fund appropriations. The Department of Health and Environmental Control (DHEC) indicates that the bill will not have an expenditure impact since the designation and regulation of controlled substances is conducted in the normal course of agency business.

This bill may result in an increase in the number of inmates housed by the Department of Corrections. However, no data are available to estimate the increase in the number of inmates that may be housed by Corrections. According to Corrections, in FY 2022-23, the annual total cost per inmate was \$37,758, \$34,570 of which was state funded. However, as the potential increase in incarcerations is unknown, any expenditure impact for Corrections is undetermined.

Revenue and Fiscal Affairs anticipates that this bill may result in an increase in local expenditures due to a potential increase in the local prison population resulting from the newly created misdemeanor punishable by imprisonment for not more than 180 days or a fine of not more than \$500, or both. However, as the number of such offenses that might occur in a given year is unknown, the potential increase in the local prison population and local expenditure is undetermined.

As this bill creates new offenses, this may result in an increase of General Fund and Other Funds and local fine revenue. However, as the number of such offenses and the resulting fines and fees that might occur in a given year is unknown, the revenue impact is undetermined.

Explanation of Fiscal Impact

Prefiled on November 16, 2023

State Expenditure

This bill creates both a felony offense and a misdemeanor offense related to the unlawful manufacture or possession of xylazine and establishes two related penalty schedules. The felony offense of unlawful production, manufacture, distribution, or possession with intent to produce, manufacture, or distribute xylazine for a use other than a nonhuman use is punishable by imprisonment for not more than ten years or a fine of not more than \$15,000, or both. The misdemeanor offense of knowingly or intentionally possessing xylazine is punishable by imprisonment for not more than 180 days or a fine of not more than \$500, or both. The bill provides exceptions in instances where the drug is used in legitimate veterinary practice; is produced, distributed, or possessed in bulk for pharmaceutical or veterinary compounding for use in a nonhuman species; is possessed pursuant to a valid prescription from a licensed veterinarian for use in a nonhuman species; or is possessed in an injectable form for use in a nonhuman species. For information, according to the U.S. Department of Justice Drug Enforcement Administration, xylazine, also known as “tranq,” is a drug that is often combined with fentanyl or other drugs and has been detected in a growing number of overdose deaths.

Judicial. Judicial reports that implementation of the bill may result in an increase in general sessions court caseloads, which can be managed using existing staff and appropriations. Therefore, the bill will result in no expenditure impact for Judicial.

Commission on Prosecution Coordination. This bill creates new offenses, which could result in an increase in the number of warrants that are sent to the Offices of Circuit Solicitor for review, prosecution, and disposition; however, the potential increase in warrants is unknown. Any increase in the number of warrants will result in an increase in the workload. The agency indicates that if this bill results in a significant increase in the workload, the agency will request an increase in General Fund appropriations.

Commission on Indigent Defense. This bill creates new offenses, which could result in an increase in the number cases handled by the Commission on Indigent Defense. The agency indicates that if this bill results in a significant increase in the workload, the agency will request an increase in General Fund appropriations.

Department of Corrections. This bill may result in an increase in the number of inmates housed by the Department of Corrections. However, no data are available to estimate the increase in the number of inmates that may be housed by Corrections. According to Corrections, in FY 2022-23, the annual total cost per inmate was \$37,758, of which \$34,570 was state funded. However, as the potential increase in incarcerations is unknown, any expenditure impact for

Corrections is undetermined. Corrections indicates that if this bill results in a significant increase in the inmate population, the agency will request an increase in General Fund appropriations.

Department of Health and Environmental Control. DHEC's Bureau of Drug Control enforces the SC Controlled Substances Act, which designates controlled substances as Schedule I through V drugs. This bill classifies xylazine as a Schedule III controlled substance, except when distributed or possessed by a veterinarian for use in nonhuman species. The department indicates that the bill will not have an expenditure impact since the designation and regulation of controlled substances is conducted in the normal course of agency business.

State Revenue

This bill may increase General Fund revenue from fines, as well as Other Funds revenue, due to the increase in fines and fees for the new offenses brought in general sessions courts. However, as the number of such offenses that might occur in a given year is unknown, the revenue impact is undetermined.

Local Expenditure

RFA anticipates that this bill may result in an increase in local expenditures due to a potential increase in the local prison population resulting from the newly created misdemeanor punishable by imprisonment for not more than 180 days or a fine of not more than \$500, or both. However, as the number of such offenses that might occur in a given year is unknown, the potential increase in the local prison population and local expenditure is undetermined.

Local Revenue

This bill may increase local revenue due to the increase in fines and fees for the new offenses brought in general sessions courts. However, as the number of such offenses that might occur in a given year is unknown, the revenue impact is undetermined.



Frank A. Rainwater, Executive Director