



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE

STATEMENT OF ESTIMATED FISCAL IMPACT

WWW.RFA.SC.GOV • (803)734-3793

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. 3497	Amended by House Judiciary Constitutional Laws Subcommittee on February 26, 2025
Subject:	Liquor Liability	
Requestor:	House Judiciary	
RFA Analyst(s):	Bryant	
Impact Date:	March 5, 2025 - Updated for Additional Agency Response	

Fiscal Impact Summary

This bill, as amended, provides that a captive insurance company may apply to the director of the Department of Insurance (DOI) for a license to provide insurance, including without limitation, liquor liability insurance. However, it may not issue eroding or declining insurance coverage in which the occurrence or aggregate limits are reduced by costs or expenses arising from the insurance company's duty to defend a claim. The bill, as amended, also provides that a person licensed or permitted to sell alcoholic beverages for on-premises consumption may qualify for a liquor liability risk mitigation program to lower the required liability insurance amount if the person and the entity for which the person obtains the license or permit satisfy certain operating conditions, including having all employees who are employed as an alcohol server or a manager on the permitted or licensed premises complete an alcohol server training program.

This bill, as amended, also provides for the establishment and implementation of an alcohol server training program. The bill, as amended, authorizes the Department of Revenue (DOR), in collaboration with the Department of Alcohol and Other Drug Abuse Services (DAODAS) and the State Law Enforcement Division (SLED), to approve the alcohol server training programs offered by providers and provides guidance regarding the curricula. The bill, as amended, also requires the provider of a program authorized by DOR to pay a fee, in an amount to be determined by the department, not to exceed \$500 per year, to be deposited into the Responsible Alcohol Server Training Fund to assist with the costs associated with the implementation and enforcement of the provisions of the bill. DOR is also required to issue and renew alcohol server certificates for all qualifying applicants free of charge. The bill, as amended, also removes conduct involving the use, sale, or possession of alcohol from the list of behaviors to which Section 15-38-15 of the Uniform Contribution Among Tortfeasors Act does not apply.

Additionally, this bill, as amended, modifies existing provisions related to driving under the influence (DUI) offenses to allow for additional fines or terms of imprisonment in certain circumstances and requires a defendant to participate in a DUI victim impact panel. The bill, as amended, also creates a new felony offense for second degree DUI that results in moderate bodily injury; requires a person convicted of felony DUI, second degree, to install an Ignition Interlock Device (IID) for one year; and increases the amount of time a person's driver's license, permit, or nonresident operating privilege may be suspended or denied for a DUI violation.

This bill, as amended, will have no expenditure impact on DOI. The department indicates that it can manage the provisions of the bill with existing appropriations.

DOR indicates the need to hire 4.0 additional FTEs (one supervisor and three staff) at a cost of \$300,000 per year beginning in FY 2025-26 for salary and fringe benefits to administer the provisions of the bill, as amended. DOR also indicates that the department will need to make system updates and form changes to implement and manage the alcohol server training program.

This bill, as amended, will have no expenditure impact on DAODAS. The department indicates that it can manage the provisions of the bill within existing appropriations.

This bill, as amended, will have no expenditure impact on SLED. The agency indicates that it can manage the provisions of the bill with existing staff and appropriations.

This bill may increase the caseload of the Administrative Law Court (ALC). ALC reports that due to a lack of historical data, the Court cannot adequately estimate the increase in the number of contested case hearings that may arise. ALC anticipates that the initial impact of the bill on the Court's caseload will likely be minimal and can be managed with existing resources. However, ALC reports that if there is a significant increase in the number of contested case hearings, the Court will require a General Fund appropriations increase.

This bill, as amended, will have no expenditure impact on the Department of Motor Vehicles (DMV). The department indicates that the required changes can be accomplished by assigning duties among existing staff and using existing equipment and supplies.

This bill, as amended, will have no expenditure impact for the Department of Public Safety (DPS), as it requires the department to perform activities that will be conducted within the normal course of agency business.

This bill may result in an increase in the number of circuit court cases and potentially the number of incarcerations, which may increase the workload of the court system and the Commission of Indigent Defense, the Commission on Prosecution Coordination, the Department of Corrections (Corrections), and the Department of Probation, Parole, and Pardon Services (PPP). However, PPP does not anticipate that there will be a significant increase in the number of participants in the IID program. The potential increase in expenses for each agency will depend upon the increase in the number of cases and number of incarcerations. These agencies indicate that if this bill, as amended, results in a significant increase in the workload, then an increase in General Fund appropriations may be requested. For information, according to corrections in FY 2023-24, the annual total cost per inmate was \$40,429, of which \$36,553 was state funded.

This bill, as amended, may increase Other Funds revenue (Responsible Alcohol Server Training Fund) of DOR by at least \$4,500 per year beginning in FY 2025-26 due to fees collected from approved alcohol server training program providers. The overall amount of this increase in Other Funds revenue will depend upon the amount of the fee charged to program providers, the number

of providers approved by the department, and the number of providers that are exempt from paying the provider fee.

This bill, as amended, may also increase Other Funds revenue of ALC due to an increase in filing fees collected in court. Currently, a request for a contested case hearing regarding an alcoholic beverage license violation must be accompanied by a non-refundable filing fee of \$150. However, the amount of the increase will depend upon the number of requests for a contested case hearing filed with the Court. Due to a lack of historical data, the overall Other Funds revenue impact from filing fees for a contested case hearing is, therefore, undetermined.

The bill, as amended, creates a new second degree felony offense for driving under the influence resulting in moderate bodily injury to another person, which is punishable by a fine of not less than \$2,500 nor more than \$5,000 and imprisonment for up to ten years. Pursuant to Section 56-5-2945(D), \$100 of each fine will be placed into a special restricted account to be used by DPS for the Highway Patrol. Currently, penalties are in place for a DUI that results in great bodily injury or death, and DPS receives \$100 of each of those fines. However, DPS anticipates that the designation of a felony offense that results in moderate bodily injury to another person may increase the number of fines, thus increasing Other Funds for the agency. As DPS does not currently track what would qualify for moderate bodily injury, the amount of the increase is undetermined.

The Revenue and Fiscal Affairs Office (RFA) anticipates this bill may impact the caseload in magistrate or municipal court. However, we anticipate any impact to the caseload can be managed within existing funds for the local court. Additionally, RFA anticipates that this bill may impact local expenditures due to a potential impact in the local jail population resulting from the newly created felony offense and modified sentencing for existing offenses. However, as the number of such offenses that might occur in a given year is unknown, the potential impact to the local jail population and local expenditure are undetermined.

As this bill, as amended, creates a new offense, this may result in an increase of General Fund, 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 are unknown, the revenue impact is undetermined.

This impact statement has been updated to include a response from DAODAS.

Explanation of Fiscal Impact

Updated for Additional Agency Response on March 5, 2025

Amended by House Judiciary Constitutional Laws Subcommittee on February 26, 2025 **State Expenditure**

This bill, as amended, provides that a captive insurance company may apply to the director of DOI for a license to provide insurance, including without limitation, liquor liability insurance. However, it may not issue eroding or declining insurance coverage in which the occurrence or aggregate limits are reduced by costs or expenses arising from the insurance company's duty to defend a claim. The bill, as amended, also provides that certain entities licensed or permitted to

sell alcoholic beverages for on-premises consumption may qualify for a liquor liability risk mitigation program to lower the required liability insurance amount. An entity may qualify for the program if all employees who are employed as an alcohol server or a manager on the permitted or licensed premises complete responsible alcohol server training and obtain an alcohol server certificate. The business may also qualify for reduced liability insurance if certain operating conditions, such as stopping alcohol sales earlier, are met.

This bill, as amended, also provides for the establishment and implementation of an alcohol server training program. DOR, in collaboration with DAODAS and SLED, is authorized to approve alcohol server training programs offered by providers. A provider may appeal a denial pursuant to Section 61-2-260 and the South Carolina Administrative Procedures Act. The provider must provide alcohol server training programs to all applicable individuals free of charge, and the curricula of each program must include certain subjects as specified in the bill. Online training programs must also satisfy certain criteria. DOR, in collaboration with DAODAS and SLED, may suspend or revoke the authorization of a provider that the department determines has violated the provisions of the bill.

This bill, as amended, also requires the provider of a program authorized by DOR to pay a fee, in an amount to be determined by the department, not to exceed \$500 per year, to be deposited into the Responsible Alcohol Server Training Fund to assist with the costs associated with implementation and enforcement of the provisions of the bill. State agency providers are exempt from payment. Each year, DOR, with the assistance of SLED, must make a report of all income and expenditures made from the fund the previous year. A copy of the report must be given to the Governor, the Speaker of the House of Representatives, and the President of the Senate, posted on the websites of DOR and SLED, and recorded in the journals of each body of the General Assembly at the beginning of each legislative year. The bill, as amended, also requires DOR to issue and renew alcohol server certificates to each applicant who completes an approved program or a recertification program. Alcohol server certificates are valid for a period of five years from the date the certificate is issued.

As a requirement for application or renewal of a permit or license for on-premises consumption, a permittee or licensee for on-premises consumption seeking to qualify for the liquor liability risk mitigation program must submit to DOR proof that the permittee or licensee, if applicable, and each manager and alcohol server employed by the permittee or licensee during the upcoming or prior permit or license period have or have held valid alcohol server certificates at all times that alcoholic beverages were sold, served, or dispensed. DOR and SLED are responsible for enforcing the provisions of this bill. DOR is also responsible for bringing administrative actions for violations of the provisions of the bill or related regulations, and those actions shall proceed according to the provisions of Section 61-2-260 and the South Carolina Administrative Procedures Act.

This bill, as amended, also modifies the existing first offense penalties for a DUI to allow both fines and terms of imprisonment to be assessed for a conviction. If the DUI offense causes a collision which is determined to be a result of the convicted person committing an act forbidden by the law or neglecting a duty imposed by law in the driving of a motor vehicle, the court may

impose an additional sentence of a fine of not more than \$400 or an additional period of imprisonment of not more than 30 days. In lieu of the 30 day imprisonment, the court may provide for 48 hours of public service employment. This additional sentence may be imposed by the magistrate or municipal court for any offense for which the court would otherwise have jurisdiction. The defendant must also participate in a DUI victim impact panel, the cost of which may not exceed \$75. The bill, as amended, also creates a new second degree felony offense for driving under the influence resulting in moderate bodily injury to another person, which is punishable by a fine of not less than \$2,500 nor more than \$5,000 and imprisonment for up to ten years. An individual convicted for a second degree felony DUI must install an IID for one year. Lastly, the bill, as amended, increases the amount of time a person's driver's license, permit, or nonresident operating privilege may be suspended or denied for DUI violations.

Department of Insurance. This bill, as amended, will have no expenditure impact on DOI. The department indicates that it can manage the provisions of the bill with existing appropriations.

Department of Revenue. DOR indicates the need to hire 4.0 additional FTEs (one supervisor and three staff) at a cost of \$300,000 per year beginning in FY 2025-26 for salary and fringe benefits to administer the provisions of the bill, as amended. DOR also indicates that the department will need to make system updates and form changes to implement and manage the alcohol server training program.

Department of Alcohol and Other Drug Abuse Services. This bill, as amended, will have no expenditure impact on DAODAS. The department indicates that it can manage the provisions of the bill within existing appropriations. *This section of the impact statement has been updated to include a response from DAODAS.*

State Law Enforcement Division. This bill, as amended, will have no expenditure impact on SLED. The agency indicates that it can manage the provisions of the bill with existing staff and appropriations.

Administrative Law Court. ALC reports that this bill, as amended, may increase the caseload of the Court. However, due to a lack of historical data, the Court cannot adequately estimate the increase in the number of contested case hearings that may arise under the program. ALC anticipates that a minimal number of additional cases can be managed with existing appropriations. However, ALC reports that if there is a significant increase in the number of contested case hearings, the Court will require a General Fund appropriations increase.

Department of Motor Vehicles. This bill, as amended, will have no expenditure impact on DMV. The department indicates that the required changes can be accomplished by assigning duties among existing staff and using existing equipment and supplies.

Department of Public Safety. This bill, as amended, will have no expenditure impact for DPS, as it requires the department to perform activities that will be conducted within the normal course of agency business.

This bill may result in an increase in the number of circuit court cases and potentially the number of incarcerations, which may increase the workload of the court system and the Commission of Indigent Defense, the Commission on Prosecution Coordination, Corrections, and PPP. However, PPP does not anticipate that there will be a significant increase in the number of participants in the IID program. The potential increase in expenses for each agency will depend upon the increase in the number of cases and number of incarcerations. These agencies indicate that if this bill, as amended, results in a significant increase in the workload, then an increase in General Fund appropriations may be requested. For information, according to corrections in FY 2023-24, the annual total cost per inmate was \$40,429, of which \$36,553 was state funded.

State Revenue

This bill, as amended, allows DOR to charge providers of alcohol server training programs an annual fee not to exceed \$500. We assume that DOR will charge the full \$500 fee for all providers except state agencies, which are exempt from the provider fee. Based upon information published by DOR, there are currently ten approved providers for alcohol server training programs, with only one provider, DAODAS, being a state agency. In addition, DAODAS developed an alcohol server education curriculum known as PREP, which is delivered through county providers. It is unclear whether county providers will be subject to the provider fee. DAODAS previously indicated that the PREP curriculum is delivered through county providers. If the county providers are exempt from paying the \$500 provider fee, this section of the bill will increase Other Funds revenue by \$4,500 annually beginning in FY 2025-26 for the nine private sector providers. The overall amount of this increase in Other Funds revenue will depend upon the amount of the fee charged to program providers, the number of providers approved by the department, as well as the number of providers that are exempt from paying the provider fee.

This bill, as amended, may also increase ALC Other Funds revenue due to an increase in filing fees collected in court. Currently, a request for a contested case hearing regarding an alcoholic beverage license violation must be accompanied by a non-refundable filing fee of \$150. However, the amount of the increase will depend upon the number of requests for a contested case hearing filed with the Court. Due to a lack of historical data, the overall Other Funds revenue impact from filing fees for a contested case hearing is, therefore, undetermined.

The bill, as amended, creates a new second degree felony offense for driving under the influence resulting in moderate bodily injury to another person, which is punishable by a fine of not less than \$2,500 nor more than \$5,000 and imprisonment for up to ten years. Pursuant to Section 56-5-2945(D), \$100 of each fine will be placed into a special restricted account to be used by DPS for the Highway Patrol. Currently, penalties are in place for a DUI that results in great bodily injury or death, and DPS receives \$100 of each of those fines. However, DPS anticipates that the designation of a felony offense that results in moderate bodily injury to another person may increase the number of fines, thus increasing Other Funds for the agency. As DPS does not currently track what would qualify for moderate bodily injury, the amount of the increase is undetermined.

This bill may result in an increase in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this

bill may result in an undetermined impact to General Fund and Other Funds revenue due to the increase in fines and fees collections in court.

Local Expenditure

RFA anticipates this bill may impact the caseload in magistrate or municipal court. However, we anticipate any impact to the caseload can be managed within existing funds for the local court. Additionally, RFA anticipates that this bill may impact local expenditures due to a potential impact in the local jail population resulting from the newly created felony offense and modified sentencing for existing offenses. However, as the number of such offenses that might occur in a given year is unknown, the potential impact to the local jail population and local expenditure are undetermined.

Local Revenue

This bill may result in an increase in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined impact to local revenue due to the increase in fines and fees collections in court.



Frank A. Rainwater, Executive Director