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FISCAL IMPACT REPORT

ORIGINAL DATE 1/28/2020

SPONSOR HJC LAST UPDATED _____ HB 156/HJCS

SHORT TITLE Crime of Illegally Dismantling Vehicles SB _____

ANALYST Dick-Peddie

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	See Fiscal Implications				Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Law Office of the Public Defender (LOPD)
 New Mexico Attorney General (NMAG)
 Department of Public Safety (DPS)

No Response Received

Administrative Office of the District Attorneys (AODA)

SUMMARY

Synopsis of Bill

The House Judiciary Committee Substitute for House Bill 156 creates a new crime of knowingly dismantling stolen motor vehicles. It criminalizes owning or operating a “chop shop”, defined as a facility or other location where an individual possesses, receives, stores, or alters a stolen vehicle or “major component motor vehicle part.”

An individual convicted of owning or operating a “chop shop” is guilty of a third degree felony, which is punishable by up to three years imprisonment and/or a \$5,000 fine pursuant to Section 31-18-5 NMSA 1978.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

The Law Offices of the Public Defender (LOPD) states that, while it is likely LOPD would be able to absorb some increase in cases under the proposed law, any increase in LOPD expenditures brought about by the cumulative effect of this and all other proposed criminal legislation would bring a need for an increase in indigent defense funding.

LFC files indicate that the average mid-point salary, including benefits, for a mid-level public defender in Albuquerque is \$102.2 thousand. The LFC FY21 recommendation for LOPD includes \$900 thousand for new attorneys, enabling the agency to hire approximately 8.5 additional public defenders. It is unknown if this is a sufficient number of attorneys to absorb the possible increased workload.

The Administrative Office of the Courts (AOC) explains “there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and an increase in commenced prosecutions, as well as appeals from convictions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.” The Department of Public Safety, which may be tasked with investigation and enforcement of the new felony, submitted a statement of no fiscal impact for HB156.

There may be some increased revenue to the courts incurred from the \$5,000 fine associated with a third degree felony, but it is impossible to determine the exact amount without data on how many chop shops are currently in New Mexico, and how many violations would result in imprisonment versus fine collection.

SIGNIFICANT ISSUES

AOC analysis explains:

According to the Colorado Attorney General’s Office, as of 2014, there were 15 other states and the federal government that have passed “chop shop” statutes.

For example, the federal statute against chop shops is as follows: “Any person who knowingly owns, operates, maintains, or controls a chop shop or conducts operations in a chop shop shall be punished by...” fine and/or imprisonment. 18 U.S. Code Section 2322.

When commenting about Colorado’s chop shop statute (which is very similar to HB 156) the Colorado Attorney General stated, “Chop-shop owners typically distance themselves from the stolen car making existing statute ineffective at preventing this type of criminal activity. [Colorado’s chop shop statute] creates a comprehensive statutory scheme that specifically targets and criminalizes the sophisticated and specialized behavior involved in stealing and parting vehicles for profit.”

TECHNICAL ISSUES

Both AOC and the New Mexico Attorney General (NMAG) noted that the bill does not define

“major component motor vehicle part.” Similar legislation introduced in the 2019 regular session included the following language defining the term:

an engine; (b) a transmission; (c) a front fender; (d) the hood; (e) any door allowing ingress to or egress from the passenger compartment of a motor vehicle; (f) a front or rear bumper; (g) a rear quarter panel; (h) a deck lid, tailgate or hatchback; (i) a trunk floor pan; (j) a cargo box of a pickup truck; (k) a frame, or if the vehicle has a unitized body, a supporting structure that serves as the frame; (l) a cab of a truck; (m) a body of a passenger vehicle; (n) an airbag or airbag assembly; (o) a wheel or tire; or (p) a part of a motor vehicle that is comparable in design or function to a part listed in this paragraph, or that is labeled with a unique traceable identification number by the manufacturer of the motor vehicle or part.

AOC and NMAG explain that without a definition of “major component motor vehicle part” the public, law enforcement officers, legal professionals, and judges may not be able to uniformly determine exactly what conduct is prohibited.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

According to the Department of Public Safety, not enacting the bill will result in less tools for law enforcement officers to use against chop shop owners.

The AOC notes that if HB 156 is not enacted, activities targeted by the bill will continue to be addressed according to current criminal state and federal statutes and/or regulatory provisions.

ADP/rl/sb