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## FISCAL IMPACT REPORT

**LAST UPDATED** \_\_\_\_\_  
**ORIGINAL DATE** 02/06/2025

**SPONSOR** Maestas

**BILL**

**SHORT TITLE** Interlock for Driving on Revoked License **NUMBER** Senate Bill 40

**ANALYST** Montano

### REVENUE\* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
TRD/fees	(\$125.6)	(\$125.6)	(\$125.6)	(\$125.6)	(\$125.6)	Recurring	MVD Suspense Fund
DOT/fees	<b>*See fiscal implications</b>					Recurring	Interlock Device Fund

Parentheses ( ) indicate revenue decreases.

\*Amounts reflect most recent analysis of this legislation.

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
TRD/MVD	\$356.0	No fiscal impact	No fiscal impact	\$356.0	Nonrecurring	MVD Suspense Fund
AOC	\$0.5	No fiscal impact	No fiscal impact	\$0.5	Nonrecurring	General Fund
DOT	<b>*See fiscal implications</b>				Recurring	Interlock Device Fund
<b>Total</b>	<b>At least \$356.5</b>	No fiscal impact	No fiscal impact	<b>At least \$356.5</b>	Nonrecurring	MVD Suspense Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency Analysis Received From

Taxation and Revenue Department (TRD)  
 Administrative Office of the Courts (AOC)  
 New Mexico Attorney General (AG)  
 Department of Transportation (DOT)

## SUMMARY

### Synopsis of Senate Bill 40

Senate Bill 40 (SB40) revises penalties for individuals convicted of driving on a revoked license,

requiring the mandatory installation of an ignition interlock device and the issuance of an ignition interlock license within 10 days of conviction. The bill removes the previous requirement for a 30-day vehicle immobilization and replaces it with the ignition interlock requirement. Additionally, the bill standardizes ignition interlock license duration, allowing for licenses to be valid for four or eight years instead of requiring frequent renewals. The bill also allows any individual whose driver's license will be or has been revoked to apply for an ignition interlock license and removes the requirement for a court order to remove an ignition interlock device, instead permitting an installer approved by the Traffic Safety Bureau (TSB) to handle device removal once the restriction period ends.

SB40 reclassifies driving on a revoked license as a case of record in metropolitan court, meaning that all convictions will be officially recorded, and appeals must be made to the Court of Appeals instead of district courts.

The bill also expands eligibility for financial assistance from the Interlock Device Fund. It increases the maximum reimbursement for installation and removal costs from \$50 to \$100 and raises monthly maintenance assistance from \$30 to \$60. Additionally, it broadens the criteria for indigent status, allowing individuals who participate in the federal food distribution program on Indian reservations or are represented by the Public Defender Department under the Indigent Defense Act to qualify for financial aid.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## **FISCAL IMPLICATIONS**

The Motor Vehicle Division (MVD), administratively attached to TRD, retains a fee of \$18 for each interlock license issued. Due to SB40 increasing the interlock licenses from one year to a four – eight year will decrease MVD suspense fund revenue. MVD provided the numbers in the revenue table located above by collecting the past 10 calendar years of interlock license revenue and then calculating a yearly average.

Implementation of this bill will affect TRD's operating budget. TRD's Information Technology Division (ITD) oversees TRD's IT systems, and SB40 will require changes to TRD's Tapestry System. TRD is expecting an added cost of \$356 thousand to pay for contractual resources and costs associated with increased staff workload to implement SB40.

The Administrative Office of the Courts (AOC) will also incur minimal operating budget costs to implement a new category of record case. Every time a new category of record case is created, AOC must purchase roughly 1,000 court case files. The current cost of a box with 100 case files is \$51, which after purchasing ten boxes would equate to a nonrecurring \$510 cost.

The Department of Transportation (NMDOT) notes:

SB40 will have an indeterminate fiscal impact on NMDOT. Including all drivers who are convicted of driving on a revoked license as eligible for an interlock device will increase the number of fees paid to the Interlock Device Fund which is offset in an indeterminate amount by the increase TSB will have to pay for indigent drivers.

While the exact financial impact is indeterminate, currently, the average cost of an install is between \$100-\$150, the monthly device fee is between \$50-\$80, and the removal is between \$100-\$140. If the bill is passed, TSB would be basically paying the entire costs for these indigent clients. The indigent numbers would grow exponentially and TSB expects more drivers will apply as indigent. For example, if a client receives \$1 in Supplemental Nutrition Assistance Program (SNAP) support a month, the client would qualify as indigent. As proposed, TSB expects the indigent fund to be over subscribed, and an inadequate amount of funding in the Interlock Fund to cover the increase in requests for support and to sustain the program.

## SIGNIFICANT ISSUES

### TRD highlights:

The bill provides that an ignition interlock device may be removed without a court order at the request of the applicant. In a circumstance where an individual's license is revoked by MVD but they are not convicted of DWI in their criminal proceeding, it can be difficult to obtain a court order to provide to the ignition interlock provider and to MVD. This provision will prevent this problem but may result in some individuals having their ignition interlock removed when they have not met the requirements to do so. Section 66-8-102.3 NMSA 1978 doubles the amount the traffic safety bureau shall pay to cover costs for indigent people from \$50 to \$100 for installation or removal and from \$30 to \$60 monthly for verifying active usage of an interlock device. This is dependent on money being available in the interlock device fund. TRD defers to the Department of Transportation on issues related to this fund's balance.

Ignition interlock devices are designed to prevent the operation of a motor vehicle if the driver's breath test indicates a positive blood alcohol content. It is unclear whether installing an ignition interlock device as a consequence of driving with a revoked license (unrelated to DWI) will be an effective deterrent to driving with a revoked license. For example, a driver convicted of driving on a revoked license, whose revocation was due to vehicular homicide, will then be required to install an ignition interlock.

### AOC notes:

Senate Bill 40 proposes in **Section 1** to amend NMSA 1978, § 34-8A-6 to make the Metropolitan Court a court of record for criminal actions involving driving on a revoked license. Currently, Metropolitan Court is only a court of record in criminal actions involving "driving while under the influence of intoxicating liquor or drugs" (DW) and in "domestic violence actions" (DV) and is on the record in its felony (FR) preliminary examinations cases. Record cases appealed from the Metropolitan Court are heard by the Court of Appeals; whereas, non-record cases are appealed to the Second Judicial District Court. *See* NMSA 1978, § 34-8A-6(D) and (E). In Calendar Year 2022, a total of 900 cases were filed where the defendant was charged with driving on a revoked license under NMSA 1978, § 66-5-39.1, and in Calendar Year 2023, a total of 867 cases were filed, and in Calendar Year 2024, a total of 889 cases were filed. Currently, in Metropolitan Court, cases where the defendant is charged with driving on a revoked license are opened as a non-record CR case type if that is the highest charge brought against the defendant. Because the Metropolitan Court's procedures for handling record cases and its retention of those records, as prescribed by State Record and Archives in NMAC § 1-21-2.1 et seq., is different for record criminal actions as opposed to non-

record criminal actions, if a new category of criminal cases are now to be record cases, the Metropolitan Court would need to request the creation of a new criminal case type like it currently has for its DW and DV record cases. In this way, the Court could delineate these cases both in the Odyssey electronic case management system and in its paper court case files and thereby ensure that they are handled and retained consistent with other record cases.

## ADMINISTRATIVE IMPLICATIONS

NMDOT notes:

SB40 will increase the administration of the interlock device program administered by TSB based on the increase of drivers who will be required to have interlock devices installed. See NMSA 1978, Section 30-3-8.2, making revocation of license required from conviction for shooting at or from a motor vehicle. See also NMSA 1978, Section 66-5-29 listing other offenses where revocation is required upon conviction. There will also be an increase in installers, who are regulated by TSB, because of the increased number of drivers subject to interlock devices.

Currently, the burden of proof for indigent fund eligibility is on the applicant. TSB does not presently have access to court records to confirm eligibility to receive support from the indigent fund. SB40 also conflicts with TSB's rule (Rule 18.20.11.22 NMAC) with regards to the requirements that must be met to remove an interlock device, in that the bill allows the installers to remove the device only upon the request of the applicant.

TRD notes:

This bill will require MVD's Tapestry system to be updated to allow interlock licenses to be issued for a valid period of four or eight years. MVD will need to make system changes allowing interlock licenses to be issued to individuals whose licenses are not currently revoked for DWI or Implied Consent Act Violations. MVD employees will require training on the updated changes this bill sets forth.

## TECHNICAL ISSUES

TRD notes:

Because the intent of the bill is for ANY person to be eligible to apply for an ignition interlock license, the language on page 6, lines 2 – 13 could be simplified for clarity. It may not be necessary to state that paragraph B applies to a person whose driver's license is revoked or will soon be revoked, for example. Considering the effort required for MVD to implement this bill, the effective due date of 6/20/2025 will not be feasible. A more feasible effective date would be 1/1/2026.

## OTHER SUBSTANTIVE ISSUES

NMDOT notes:

SB40 will also increase the administration of the program because now TSB must also monitor the removal of interlock devices without court orders. The bill will likely lead to substantial abuse by both installer and applicants because it does not limit when an approved installer can remove a device without a court order, except when requested by

the applicant. The potential for abuse will require TRB to increase inspection of installers operation.

## **ALTERNATIVES**

NMDOT adds:

A portion SB40 can be accomplished by amending TSB's rules regarding the requirements that must be met to remove an interlock device.

NM/hj/SL2