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FISCAL IMPACT REPORT



SPONSOR: SJC DATE TYPED: 02/09/02 HB _____

SHORT TITLE: Ignition Interlock Devices SB 133/SJCS

ANALYST: Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
		See Narrative	\$0.1	Recurring	General Fund

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY02	FY03			
	\$850.0 (est)	\$850.0 (est.)	Recurring	OSF/Ignition Interlock Device Fund-New Fund

SOURCES OF INFORMATION

- Administrative Office of the Courts (AOC)
- Administrative Office of the District Attorneys (ADA)
- Attorney General's Office (AG)
- Taxation and Revenue Department (TRD)
- Public Defender Department (PDD)
- State Highway and Transportation Department (TRD)

SUMMARY

Synopsis of Bill

SB 133/SJCS makes it mandatory for all DWI offenders to have an interlock device installed and operating for a period of one year. SB 133/SJCS also creates an indigent fund for those who cannot afford a device. This bill allows

the sentencing court to determine indigence status and states that if the offender drives a motor vehicle that does not have an ignition interlock device, the offender may be in violation of the terms and conditions of probation.

SB 133/SJCS specifies that any conviction in any municipal or county ordinance in New Mexico or a law of any other jurisdiction, territory or possession of the U.S. that is equivalent to New Mexico law for DWI, shall be deemed a conviction for determining whether a conviction is second or subsequent.

SB 133/SJCS further states that the court may order the offender to pay the costs of any court-ordered screening and treatment programs.

The effective date of SB 133/SJCS is January 1, 2003.

Significant Issues

The cost of the device is from \$70 to \$120 for installation and \$60 to \$70 per month thereafter. The cost of DWI school is \$125, mandatory court costs amount to \$199, fines can be charged up to \$500, the victim impact panel is \$25 and the screening cost is \$75. The total cost for a first-time DWI offender could conceivably amount to \$1,704. Subsequent offenders could pay even more. The AOC says that this could create an undue financial burden on some DWI offenders.

The SHTD reports that ignition interlock has shown a low recidivism rate while the device is installed in the vehicle. There are currently approximately 12,000 DWI convictions per year. The ignition interlock device is already available in New Mexico. However, since it is not mandatory only a few hundred are installed per year. The mandate for ignition interlock would greatly increase the demand for the device, but the increase demand could be met, as the device providers are anxious to expand. License revocation is one of the main deterrents for the prevention of DWI. However, it is true that many people still drive despite the revocation.

The device not only protects against the offender driving the vehicle while impaired but also protects against anyone driving the vehicle impaired.

FISCAL IMPLICATIONS

HB 133 creates an interlock device fund of 10 percent of the amount charged to lease each ignition interlock device that is paid monthly to the Local Government Division (LGD) of the Department of Finance and Administration (DFA). This fund will cover the costs of leasing ignition interlock devices to indigent people who are required to install those devices in their vehicles. The LGD of the DFA shall administer the fund. It is not known how many DWI offenders will claim to be indigent. The fund may climb as high as \$850,000 if all DWI offenders pay into the fund. The revenue generated is based on 10% of approximately 12,000 DWI offenders.

The SHTD's Traffic Safety Bureau is currently responsible for certification and oversight of all service providers in the State. There are currently eight (8) service providers statewide. SB133 would drastically increase the demand for the ignition interlock device. This would increase the responsi-

bility of the Traffic Safety Bureau to certify and oversee current service providers as well as additional service providers that may result in the increased demand. The Traffic Safety Bureau does have a current rule for the operation of ignition interlocks that would need to be revised to meet the provisions of this bill.

ADMINISTRATIVE IMPLICATIONS

The PDD claims that any new crime or penalty requires that it train its advocates and staff in order to implement the PDD's mission. A significant concern is raised by SB 133/SJCS, as it will be applied in magistrate courts where the Public Defender Department has not had sufficient staff or contract resources to represent at initial appearances where first offense pleas take place.

TECHNICAL ISSUES

The AOC states that there needs to be a definition of indigent status and whether that standard will be utilized by all courts. How quickly will the paperwork be processed for an indigent client if they are required to have the interlock system installed immediately after sentencing? Offenders who have the interlock system now have waited up to two weeks to have the device installed.

SHTD has noted that the following issues should be clarified:

- 1) The definition of "one-year of continuous, legal alcohol-free driving. Does this mean a subsequent DWI or alcohol related driving offense or does this mean failing a breath test on the Ignition Interlock Device?
- 2) When shall the device be installed on the vehicle? Upon reinstatement of a driver's license or immediately after conviction?
- 3) What happens if someone fails to meet the "one-year continuous, legal alcohol-free" driving requirement and the two-year probation period has expired? Who then would be responsible for the oversight for the offender?

OTHER SUBSTANTIVE ISSUES

TRD has provided the following issues:

- A driver can also lose his or her privileges to drive under an administrative revocation under Section 66-8-112, part of the Implied Consent Act. Even though a person may be treated as a first-time DWI offender by the court, TRD may know that the person has had prior DWI convictions and revoke the license for a period of time including the period the court requires use of an ignition interlock.
- If the intent of this bill is to have the Motor Vehicle Division (MVD) be the source of information (regarding mandatory interlock devices for first-time offenders) to law enforcement, language needs to be added that requires all offenders report to MVD to have a restricted license issued with the proper codes. Without this, law enforcement would have no way of knowing that the person should be driving with an interlock device. Both the courts and MVD would need some sort of tracking system that is not currently in place.

DW/njw:sb