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FISCAL IMPACT REPORT

SPONSOR Cheney DATE TYPED 2/9/05 HB 506

SHORT TITLE DWI License Suspensions and Interlocks SB _____

ANALYST Medina

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with HB 282

Relates to HB 472, HB 492, HB 493, HB 494, HB 502, SB 154, SB 187, SB 390 and SB 391

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the District Attorneys (AODA)

Attorney General (AG)

Public Defender Department (NMPD)

Department of Transportation (NMDOT)

SUMMARY

Synopsis of Bill

House Bill 506 amends various sections of statute related to ignition interlock and motor vehicle licenses. The bill requires that a motor vehicle license not be issued to a person convicted of DWI except as provided in the Ignition Interlock Licensing Act (Sections 66-5-501 through 66-5-504). The bill makes revocation of a motor vehicle license mandatory upon a driver's conviction of any offense rendering a person a "first offender" as defined in the Motor Vehicle Code. The bill further provides that no first or subsequent offender be issued a driver's license.

House Bill 506 further provides that upon a DWI conviction, the offender's driver's license shall be revoked and have driving privileges denied. The bill provides that within 24 hours of conviction, the sentencing court shall notify MVD of the conviction and upon receipt of this notification, MVD is to revoke or deny the offender's driver's license and driving privileges.

Significant Issues

This bill requires that any person convicted of DWI is to be denied a driver's license unless that person applies for an ignition interlock license. The bill does not provide for due process in driver's license revocation. According to NMPD, the action is mandatory and automatic and due process requires notice and an opportunity for a hearing before the state can suspend or revoke a person's driver's license [*State v. Herrera*, 111 N.M. 560, 562, 807 P.2d 744, 746 (Ct. App. 1991); *Maso v. State Taxation & Revenue Dep't*, 2004-NMSC-28, ¶10 (N.M., 2004)]. NMPD also contends that this bill will not withstand constitutional challenges.

ADMINISTRATIVE IMPLICATIONS

According to AOC, 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 commenced prosecutions. 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.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill conflict directly with HB 282, which adds additional mandatory ignition interlock requirements. This bill is also most similar to HB 502.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Current law regarding driver's license issuance and denial for those convicted of DWI will remain the same.

DXM/yr