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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/10/09  
 SPONSOR SJC LAST UPDATED 03-19-09 HB \_\_\_\_\_  
 SHORT TITLE Interlocks and DWI License Reinstatement SB CS/275/aHJC  
 ANALYST Lucero

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

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		Minor	Minor	Minor	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of HJC Amendment

House Judiciary Committee (SJC) amendment to Senate Bill 275 clarifies that to reinstate the drivers license you must complete the license revocation period, and satisfy court-ordered ignition interlock requirements.

#### Synopsis of Original Bill

Senate Judiciary Committee (SJC) substitute for Senate Bill 275 amends Section 66-5-33.1 NMSA 1978 to require a driver's license that has been revoked for DWI meet the following new requirements before reinstatement:

1. a minimum of six months of driving with an ignition interlock license with no attempts to circumvent or tamper with the ignition interlock device; and
2. an additional fee of \$75.00 is paid

An out-of-state resident may have driving privileges reinstated without the six month ignition interlock license requirement if the following conditions are met:

1. the license revocation period is completed;
2. satisfactory proof is presented to the department that the person is no longer a resident of New Mexico; and
3. the license reinstatement fee is paid

Allows a person who has not met the above ignition interlock license requirements as a condition of reinstatement may apply for an ignition interlock license.

## **SIGNIFICANT ISSUES**

The SJC substitute for SB275 adds to the requirements to reinstate the driver's license of a person who has had a driver's license revoked for driving while under the influence of intoxicating liquor or drugs or for aggravated driving while under the influence that there be a minimum of six months of driving with an ignition interlock license with no attempt to circumvent or tamper with the ignition interlock device. However, the bill does not define what it means to "circumvent or tamper with the ignition interlock device." Without statutory definition or guidance, MVD staff will have to establish by rule and procedure what specific additional information must be provided in the vendors' reports

The ignition interlock vendor would need to provide proof that the device was not circumvented or tampered with.

The bill provides requirements to reinstate driving privileges for out-of-state residents.

## **PERFORMANCE IMPLICATIONS**

The requirements in this bill may serve as an effective additional deterrent to driving under the influence of alcohol or drugs.

## **ADMINISTRATIVE IMPLICATIONS**

Assuming the technical legal conflicts in statute could be reconciled, there would be some minor administrative impact on the Motor Vehicle Division associated with verification of the "six months without circumventing or tampering with the ignition interlock device.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to HB29, SB270, SB308

## **TECHNICAL ISSUES**

The bill does not define what it means to "circumvent or tamper with the ignition interlock device" and without statutory definition or guidance, MVD staff will have to establish by rule and procedure what specific additional information must be provided in the vendors' reports

The bill conflicts with Section 66-8-102 NMSA 1978 which governs restoration of driver's licenses revoked for DWI. While Section 66-8-102 NMSA 1978 requires a court to sentence a person convicted of DWI to install the interlock device and get an interlock license, the courts waive that requirement if the person does not own a vehicle. The bill does not allow for people who never obtain an interlock license. If a person's license is only revoked under Implied Consent, the person is not required to obtain an interlock license. Under this bill, a person who does not own a vehicle would find it necessary to purchase a vehicle, obtain an ignition interlock license, and not circumvent or tamper with it for six months in order to qualify for a license at the end of the revocation period.

The bill conflicts with Section 66-5-29 NMSA 1978 which governs mandatory revocation of licenses and sets specific revocation periods. MVD does not have the ability to extend that revocation period in order to have the person comply with the requirements of this bill. The bill

may require a different drafting approach, amending revocation parameters rather than reinstatement requirements.

The bill also conflicts with Section 66-5-5(D) NMSA 1978 which specifies when the division shall not issue a driver's license under the Motor Vehicle Code

### **ALTERNATIVES**

Mandate that all DWI offenders must install an ignition interlock in a vehicle as part of their probation.

Shorten the time period to make it more reasonable for offenders to comply.

### **AMMENDMENTS**

The bill does not identify the specific six month period that could constitute qualification for a license renewal. The person may be on an ignition interlock device for any number of years, and may have a period of six months without an incident of circumventing or tampering during some interim period. The bill should probably refer to the six month period “immediately preceding the date of reinstatement” after the word “device” on page 2, line 14.

DL/mc:svb