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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/21/13  
 SPONSOR HTPWC LAST UPDATED 02/15/13 HB 43/HPTWCS  
 SHORT TITLE Prohibit Messaging While Driving SB \_\_\_\_\_  
 ANALYST Boerner

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
\$0.0	\$0.0	\$0.0		None
Unspecified federal grant money related to the state's compliance with MAP-21 (federal distracted driving program)			Nonrecurring	Department of Transportation Operating Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

### SUMMARY

#### Synopsis of Bill

This bill would add a section to the Motor Vehicle Code which would prohibit reading, viewing manually typing or manually sending a message on a personal wireless communications device while driving except to summon aid, or by law enforcement personnel. A person under the age of 18 is prohibited from using a personal wireless communications device while driving. Messaging while driving is a primary offense. "Driving," "message," "personal wireless communications device" and "primary offense" are defined.

The Motor Vehicle Code is also amended to include "the applicant's knowledge of and ability to handle distracted driving circumstances" on the list of things a new applicant for a driver's license will be tested for.

Finally, the Motor Vehicle Code is amended to add penalties of \$25.00 for "messaging while driving" and "wireless communication use under 18." Additionally, the bill provides for increased fines for a second and subsequent offense within a 5-year period for messaging while driving and use of a personal wireless communications devices when under 18.

## FISCAL IMPLICATIONS

The bill appears to meet the necessary requirements for federal funds under the new federal surface transportation bill, Moving Ahead for Progress in the 21<sup>st</sup> Century Act (“MAP-21”), which designates \$22.5 million of Section 405 funds to be distributed between all states that have specific distracted driving programs in 2013.

In order to be eligible for a portion of the funding, a state must enact and enforce two types of laws:

- A prohibition on texting for all drivers with a minimum fine for the first offense (\$25) and increased fines for a second and subsequent offense within a 5-year period.
- A prohibition on the use of any personal wireless communication device by drivers younger than 18 with a minimum fine for first offense (\$25), and increased fines for a second and subsequent offense within a 5-year period. The state must also require by statute that distracted driving issues be tested as part of the driver’s license exam.

The MAP-21 requirements do allow for exceptions for emergencies or in the performance of duties by emergency vehicle operators and school bus drivers.

If New Mexico passes and implements such a law compliant with MAP-21, NMDOT will receive additional funding for public education and awareness relating to texting/cell phone while driving issues. Eligible states can use up to 50 percent of their funding for any Section 402 grant program area including: speeding, occupant protection, motorcycle safety, DWI, aggressive, fatigued or distracted driving. Funding may also be used for law enforcement needs, driver education, testing, licensing and examinations, pedestrian and bicycle safety, emergency services, and improved traffic data collection.

## OTHER ISSUES

The NM DOT noted (regarding a similar bill) that currently only teens with a learner’s or provisional license are prohibited from using a mobile communication device while operating a motor vehicle. Distracted driving has been identified by the federal government as a high-risk driving behavior and encourages states to adopt legislation designed to deter the activity. In 2010, driver inattention was the top contributing factor for all crashes in New Mexico (24 percent) and was the cause of 12 percent of all fatal crashes according to data compiled from uniform crash reports submitted by New Mexico state law enforcement agencies.

The NM DOH notes also that nationally 16 percent of motor vehicle injury fatalities are distraction-related and, of these distraction-related fatalities, 18 percent involved a cell phone. Five percent of non-fatal injuries in distraction related crashes involved a cell phone (Traffic Safety Facts, September 2010, National Highway Traffic Safety Administration). It is estimated that 7 fatalities in NM in 2009 involved a cell phone as a distraction, and another estimated 21 people were hospitalized (Traffic Safety Facts, September 2010, National Highway Traffic Safety Administration). Text messaging while driving increases the time that the driver’s eyes are not on the road. And, the risk of a crash while text messaging is 23 times greater than driving while not distracted (<http://www.distraction.gov/content/get-the-facts/facts-and-statistics.html>).

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Teen drivers with a learner's or provisional permit will be the only drivers prohibited from using mobile communication devices while driving, and NMDOT would not be eligible for certain MAP-21 funds.

CEB/blm