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FISCAL IMPACT REPORT

01/31/13
ORIGINAL DATE 02/15/13
LAST UPDATED 03/04/13 **HB** 87/HBICS/aHFL#1

SPONSOR HBIC

SHORT TITLE Alcohol Sales & Interlock Devices **SB** _____

ANALYST Boerner

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost*	Recurring or Nonrecurring	Fund Affected
Total	\$8.5	\$0.0	\$0.0	\$8.5	Nonrecurring	TRD-IT Division
		\$50.0-\$200.0	\$0.0	\$50.0-\$100.0	Nonrecurring	TRD-MVD Operating

(Parenthesis () Indicate Expenditure Decreases)

* Implementation of this bill will have a low impact for TRD-Information Technology Division. Listed are the affected programs and time estimates:

MVD 2.0 – 80 hours
 License Batch Program – 60 hours
 Testing – 30 hours
 Total Hours – 170 @ \$50/hr = \$8,500

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General’s Office (AGO)
 Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of House Floor Amendment

The HFL amendment amends page 5 line 2 to clarify that a person *who is under a court order not to drive without* an ignition interlock license is prohibited from purchasing alcoholic beverages. Previous language prohibited the purchase of alcoholic beverages for those who were driving with an ignition interlock license.

Synopsis of Original Bill

Section 66-5-405 NMSA 1978 is amended to require that an ID card for a person who has had his or her driver's license revoked for DUI or for violation of the Implied Consent Act must indicate that the person is prohibited from purchasing alcohol.

Section 66-5-502 NMSA 1978 amends the definition of "ignition interlock license" to indicate that possession of such a license indicates that the person is prohibited from purchasing alcohol.

Finally, a new subsection under Section 66-5-503 NMSA 1978 adds to ignition interlock license requirements, stating that a person driving with an ignition interlock license is prohibited from purchasing alcohol and that the ignition interlock license should clearly indicate that prohibition.

FISCAL IMPLICATIONS

There would be minimal administrative cost for statewide implementation 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.

The TRD states that the bill would require design changes to the affected interlock licenses and IDs. Redesign cost is roughly estimated at \$50 thousand to \$100 thousand but could be as high as \$200 thousand.

SIGNIFICANT LEGAL ISSUES

The AGO notes that to prohibit a group of people from purchasing alcohol raises due process and equal protection concerns. The offenders may argue that they are being discriminated against and that it is not possible to prove that they are not purchasing alcohol for someone else as a gift, for example.

OTHER SIGNIFICANT ISSUES

The TRD argues that there are several loopholes in this bill. Retailers do not always ask for evidence of a person's age. If the retailer fails to do so, someone whose license is revoked will still buy alcohol. There is no requirement that a person use his or her interlock license or NM identification card when providing evidence of age. If a person is revoked for DWI or an implied consent violation in another state, they will still be able to buy alcohol since that person probably will not have a NM interlock license or NM identification card.

PERFORMANCE IMPLICATIONS

The AGO argues that there are oversight issues with regulation of those liquor establishments, grocery stores, liquor stores, etc. who could sell to offenders, posing the questions of who will be responsible for oversight of sellers of alcohol and who will train the employees of the establishments.