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FISCAL IMPACT REPORT

SPONSOR Ivey-Soto/ Garcia Richard **ORIGINAL DATE** 3/5/15 **HB** _____
LAST UPDATED _____

SHORT TITLE Create Driving Under the Influence Code **SB** 613

ANALYST Malone

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$8.5	\$0.0	\$0.0	\$8.5	Nonrecurring	TRD-ITD Budget

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)
 Department of Public Safety (DPS)
 Administrative Office of the Courts (AOC)
 Law Offices of the Public Defender (PDD)
 Department of Transportation (NMDOT)
 Administrative Office of the District Attorneys (AODA)
 Attorney General's Office (AGO)
 New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

Senate Bill 613 creates a Driving Under The Influence Code. It retains and recompiles the basic elements of the Motor Vehicle Code related to DWI or DUI. It defines numerous key terms used in the Code. It retains the basic alcohol concentration standards and criminal penalties for DUI offenses.

The bill also recompiles the following provisions of the Motor Vehicle Code:

- Guilty Pleas – Limitations,
- Disallowing Municipal and County Ordinances Regarding Concentration Levels,
- Uniform DWI Police Reports and Procedures,
- Blood Alcohol Tests: Qualified Persons and Relief from Liability,
- Implied Consent to Chemical Test,
- Consent of a Person Incapable of Refusal Not Withdrawn,

- Chemical Test: Administration and Payment of Costs,
- Use of Tests, Levels of Intoxication and Mandatory Charging,
- License Revocation Upon Refusal to Submit to a Test,
- Procedures and Hearings Regarding Revocation,
- Revocation: Costs and Review,
- Ignition Interlock License Requirements and
- Interlock Device Fund and Fees.

See attachment 1 for section by section changes.

FISCAL IMPLICATIONS

TRD estimates that costs of implementing required changes of the bill to be \$8.5 thousand in FY15.

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 any challenges to recompilation or the structure of the newly created DUI Code and DUI Act.

SIGNIFICANT ISSUES

SB 613 simply reorganizes existing law. In using existing language from Section 66-8-102 NMSA 1978 in SB 613, Sections 29 through 45, some technical and grammatical changes are made, as well as changes that reflect the existence of the newly-created DUI Act, with references to applicable sections of the DUI Act, etc. Technical and grammatical changes have also been made in recompiling the Implied Consent Act, Sections 66-8-105 through 66-8-112 NMSA 1978 (SB 613, Sections 50 through 57) the Ignition Interlock Licensing Act, Sections 66-5-501, 66-5-503, 66-5-504 and Section 66-8-102.3 NMSA 1978 (SB 613, Sections 58 through 61) and in using language contained in Sections 66-8-102.1, 66-8-102.2, 66-8-102.4 and 66-8-103 NMSA 1978 within the newly-created DUI Act. It does not appear that any of the technical and grammatical changes are substantive in nature.

ADMINISTRATIVE IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Substantially similar to SB 586, but does not make an appropriation, create a fund, allow for certain alternative sentencing, or increase penalties and treatment in the same way.

Related to 2015 HB 86, HB 120, HB 131, HB 355, HB3 59, HB 404, and SB 511.

TECHNICAL ISSUES

Section 66-5-29(B) and (C) should be amended to reference the Driving Under the Influence Code.

On page 6, Section 23, the definition of “revocation” needs to be amended to include that a

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revocation action is also taken against a person's driving privileges. For instance, a person may only have an ID card in which case only the driving privilege can be revoked, not a license.

Page 38, line 10 (Section 59(B)(1)): phrase "approved by bureau" should read "approved by *the* bureau."

CEM/aml/bb

Section 1: Short title, “Driving Under the Influence Code”

Sections 2 through 27: contains definitions of terms as used within the DUI Code

- **Terms used in the DUI Code as defined in the Motor Vehicle Code (“MVC”):** combination; commerce; commercial motor vehicle; driver; driver’s license; hazardous material; license; motor vehicle; nonresident operation privilege; suspension; and vehicle.
- **Terms previously defined in Section 66-5-502 NMSA 1978, governing definitions as used in the Ignition Interlock Licensing Act:** denied; ignition interlock device; ignition interlock license; and revoked.
- **Term previously defined in Section 66-8-102(U)(1) NMSA 1978, governing driving under the influence, aggravated driving under the influence and providing penalties:** bodily injury.
- **Term as defined in Section 30-31-2 NMSA 1978:** controlled substance.
- **Terms defined in the MVC but not referenced as such (statutory section where defined in parentheses):** bureau (Section 66-1-4.2(B), but with reference “department of transportation” rather than to old “state highway and transportation department”); conviction (Section 66-1-4.3(N), but without subsection 1(d)); department (Section 66-1-4.4(D)); first offender (Section 66-1-4.6(C), but changing “under” to “pursuant to”); mail (Section 66-1-4.11(A), but changing “any item” to “an item”); nonresident (Section 66-1-4.12(D)); police officer (Section 66-1-4.14(J), but not including “peace officer”); revocation (Section 66-1-4.15(K), but deleting portion of definition providing for presentment of application for a new license); and subsequent offender (Section 66-1-4.16(R)).

Sections 28 through 49: DUI Act

- Section 28: short title, “DUI Act”
- Section 29: definition of “commercial motor vehicle” as used within the DUI Act, as previously defined in Section 66-8-102(U)(2)
- Section 30: previously Section 66-8-102(A) and (B)
- Section 31: previously Section 66-8-102(C)(1) and (2)
- Section 32: previously Section 66-8-102(D)(1), (2) and (3)
- Section 33: previously Section 66-8-102(E)
- Section 34: previously Section 66-8-102(F)(1) and (2), and Subsection (L)
- Section 35: previously Section 66-8-102(G)
- Section 36: previously Section 66-8-102(H)
- Section 37: previously Section 66-8-102(I)
- Section 38: previously Section 66-8-102(J)
- Section 39: previously Section 66-8-102(K)
- Section 40: previously Section 66-8-102 (M)
- Section 41(A): previously Section 66-8-102(N)
- Section 41(B): previously Section 66-8-102(O)
- Section 41(C): previously Section 66-8-102(P)
- Section 42: previously Section 66-8-102(R)
- Section 43: previously Section 66-8-102(S)
- Section 44: previously Section 66-8-102(T)
- Section 45: previously Section 66-8-102(Q)
- Section 46: recompiles Section 66-8-102.1
- Section 47: recompiles Section 66-8-102.2

- Section 48: recompiles Section 66-8-102.4
- Section 49: previously Section 66-8-103

Sections 50 through 57: Implied Consent Act

- Section 50: recompiles Section 66-8-105
- Section 51: recompiles Section 66-8-107
- Section 52: recompiles Section 66-8-108
- Section 53: recompiles Section 66-8-109
- Section 54: recompiles Section 66-8-110
- Section 55: recompiles Section 66-8-111
- Section 56: recompiles Section 66-8-111.1
- Section 57: recompiles Section 66-8-112

Sections 58 through 61: Ignition Interlock Licensing Act

- Section 58: recompiles Section 66-5-501
- Section 59: recompiles Section 66-5-503
- Section 60: recompiles Section 66-5-504
- Section 61: recompiles Section 66-8-102.3

Section 62: Repeals Sections 66-5-502 NMSA 1978, providing definitions for terms as used in the Ignition Interlock Licensing Act, and 66-8-102 NMSA 1978, governing driving under the influence, aggravated driving under the influence and providing penalties.