

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

Garcia, H  
/Lente/Martinez, R      **ORIGINAL DATE** 02/13/17  
**SPONSOR** /Ferrary      **LAST UPDATED** \_\_\_\_\_      **HB** 300

**SHORT TITLE** No Alcohol Sales for Persons with Interlocks      **SB** \_\_\_\_\_

**ANALYST** Sánchez

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

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$136.0		\$136.0	Nonrecurring	General Fund/Other State Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB22, HB49, HB151, HB31, SB136, SB238

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)  
Department of Public Safety (DPS)  
Administrative Hearing Office (AHO)  
Taxation and Revenue Department (TRD)  
Administrative Office of the Courts (AOC)  
Public Regulation Commission (PRC)  
Economic Development Department (EDD)  
Department of Health (DOH)  
Office of the Attorney General (OAG)

### SUMMARY

#### Synopsis of Bill

House Bill 300 proposes to amend the Liquor Control Act to prohibit the sale of alcohol to individuals with an interlock license or with an identification card that indicates the person is prohibited from purchasing alcohol beverages. The bill also seeks to amend the Motor Vehicle Code, namely Section 66-5-405 and 66-5-503 NMSA 1978 to require identification cards and interlock driver's licenses issued to first or subsequent (DWI) offenders to have a "printed legend" indicating the person is prohibited from purchasing alcohol. The identification card printed legend will be as follows:

## House Bill 300 – Page 2

- 1<sup>st</sup> offense adjudicated guilty, purchase of alcohol would be prohibited for one year from date the interlock license is issued.
- 2<sup>nd</sup> offense adjudicated guilty, purchase of alcohol prohibited for two years from date of issuance
- 3<sup>rd</sup> offense adjudicated guilty, purchase of alcohol would be prohibited for three years from date the interlock license is issued.
- 4<sup>th</sup> or subsequent offense adjudicated guilty, purchase of alcohol would be prohibited for the person's natural life.

A person adjudicated guilty of four or more DWIs may apply to the district court to allow issuance of a card without the printed legend.

### FISCAL IMPLICATIONS

The Taxation and Revenue Department (TRD) states that the ignition interlock driver's license and ID would have to be redesigned to comply with the requirements of this bill. Coordination with the MVD's card production vendor is expected to require at least 6 months to implement and changes to the credential and will cost approximately \$100 thousand in contract costs. The TRD Information Technology Division will need approximately 12 weeks to complete, test and implement the necessary changes to the MVD system at an estimated cost of \$33.6 thousand.

The Administrative Office of the Courts (AOC) reports that it may have to modify or create new forms and modify its databases to address the addition of the no alcohol sales to dispositions of DWI charges, including the abstract (or some other report) sent to MVD following a disposition; however, it did not provide an estimated impact to make those changes.

Additionally, AOC believes that the increase in penalties may result in an increase in court resources related to defendants refusing plea deals and seeking trials, including jury trials. The bill also would likely result in additional burden on the district court to hear applications for removal of the legend from the identification card. AOC did not provide an estimated fiscal impact.

Although it is difficult to accurately estimate the cost of increased trials because of this or similar legislation, it is important to note that the average salaries, benefits and other costs yearly for the district courts is \$335.6. Moreover, LFC files show the jury and witness fund shortfall for FY17 is estimated to be \$609 thousand even with a reduction in the hourly rate below the federal minimum rate of \$6.25 per hour. The FY16 shortfall was \$994.5 thousand.

### SIGNIFICANT ISSUES

TRD reports there is very limited space on the face of a driver's license or identification card to add new information, including the language proposed by this bill (see images at the end of this FIR). There may be several viable options to get a legend to fit on the DL/ID, including:

1. Use a large holographic image on the front of the credential that specifies "no alcohol" that could also have a holographic image of a bottle with a circle and line drawn through it.
2. Use a designating symbol as is used for organ donor, hard of hearing, and veterans.

3. Create a new template for Interlock DLs and IDs that don't allow for purchasing alcohol. Then the language on the template could be changed to state "No Alcohol" or similar language.

According to TRD, the effective date of July 1, 2017 is not feasible as it will take at least 12 weeks to make the computer system changes. A later effective date is preferable.

The Attorney General's Office (OAG) believes that, at least in part, the bill protects the due process rights of individuals by including a provision for judicial review after five years have passed. It does express some concern as to the nature of the judicial review or any other mechanism available to a person claiming injury before the expiration of the five years. OAG also points out that the new requirements for servers and Liquor Act licensees may implicate due process rights and that the existing administrative remedies apply to the new duties outlined in the bill.

### **ADMINISTRATIVE IMPLICATIONS**

TRD's driver's license/ID issuance policies and procedures will have to be modified so that interlock ID processes mirror those applied to issuance of an interlock driver's license. MVD will need to make updates to its manuals and website.

The Alcohol and Gaming Division of RLD issues, transfers and revokes liquor licenses as specified in the Liquor Control Act. It administers the Alcohol Server Training Program, educating licensees and servers to prevent sales of alcoholic beverages to minors and intoxicated persons. This bill would add sale to individuals with driver's license and identification cards prohibiting purchase of alcohol.

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

HB300 relates to HB22 DWI for Certain Drugs & Interlocks, HB49 DWI interlock Requirements, HB151 DWI Interlock Removal Requirements, HB31 and SB136 Drivers' License for Some With Only 1 DWI, SB238 DUI Penalties and Changes

### **TECHNICAL ISSUES**

Change the law's effective date to October 1, 2017 or after.

### **OTHER SUBSTANTIVE ISSUES**

The Department of Public Safety (DPS) Special Investigations Division is responsible for inspecting licensed liquor establishment and investigates the illegal sale of alcohol to intoxicated persons and would presumably be responsible for investigating violations outlined in this bill. It believes that this bill will have little to no impact on its operations.

DOH cites New Mexico Department of Transportation preliminary estimates, which show there were 166 alcohol-involved motor vehicle traffic crash (MVTC) deaths in New Mexico in 2016, alcohol-involved MVTC make up 43% of all MVTC deaths.

DOH states that the Community Guide for Preventive Services (which is supported by the Centers for Disease Control and Prevention) recommends requiring the use of ignition interlocks for all people convicted of alcohol-impaired driving. Multiple studies show the required use of

ignition interlocks resulted in a 67% median decrease in re-arrest rates among those convicted of alcohol-impaired driving. However, there is no formal evaluation of the impact of restricting alcohol sales to people using ignition interlocks.



ABS/al/jle