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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/31/17  
 LAST UPDATED 3/17/17

SPONSOR Munoz HB 136/aSPAC/aSJC/  
 SHORT TITLE Driver's License for Some with Only 1 DWI SB aHFL#1

ANALYST Rogers

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
\$0.0	\$(13.5)	\$(13.5)	Recurring	Other State Funds

(Parenthesis ( ) Indicate Revenue Decreases)

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

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$0.0	\$8.4	\$0.0	\$8.4	Nonrecurring	Other State Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 22, HB 74  
 Duplicates HB31

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Administrative Hearing Office (AHO)  
 Department of Transportation (DOT)  
 Taxation and Revenue Department (TRD)  
 Office of the Attorney General (OAG)

### SUMMARY

#### Synopsis of the HFL#1 Amendment

House Floor amendment 1 to Senate Bill 136 strikes reference to the "District of Columbia" in Section 1, subsection E, governing conviction in other states. The amendment clarifies that the provisions of Section 1, subsection E, paragraph 1 apply to a prior conviction that did not result

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in great bodily harm or death. Finally, the amendment clarifies Section 1, subsection E, paragraph 1 applies only when at least 12 months have passed since the person's conviction.

### Synopsis of the SJC Amendment

The Senate Judiciary Committee amendment strikes "District of Columbia" from the list of states and governmental subdivisions detailed in Section 1, Subsection E (1).

### Synopsis of the SPAC Amendment

The Senate Public Affairs Committee (SPAC) amendment to Senate Bill 136 strikes the language "of the person's most recent offense" from page four. On page five, line eighteen, after the word "drugs" the words "and that conviction is" are added. On page five, line twenty, after "and" the word "who" is inserted. Finally, on page five, line twenty-two, "a" is replaced with "the".

The amendments do not significantly alter the bill.

### Synopsis of Original Bill

Senate Bill 136 proposes to amend the ignition interlock licensing requirement to provide that a person with only one prior conviction for DWI in another jurisdiction may obtain a New Mexico driver's license upon proof of completion of all sentencing conditions.

## **FISCAL IMPLICATIONS**

The Administrative Office of the Courts (AOC) and the Administrative Hearings Office (AHO) report no fiscal impact from this bill.

The Taxation and Revenue Department (TRD) reports that it will take approximately three weeks to make changes to its computer system at a cost of \$8,400.00. It also states that the revenue impact is based on 214 first time out-of-state interlock transactions in FY16.

## **SIGNIFICANT ISSUES**

DPS explains "the proposed changes in section E of this bill appear inconsistent with the language in Section 66-5-33.1 NMSA 1978 which states if a driver's license was revoked the following are required to reinstate the driver's license: a minimum of six months of driving with an ignition interlock license with no attempts to circumvent or tamper with the ignition interlock device."

The OAG states the bill adds the language "of the person's most recent offense" to the first sentence of Sec. 66-5-5(E) NMSA 1978. This new language may not be necessary to effectuate the intent of the bill, and may invite unforeseen litigation. The SPAC amendment striking "of the person's most recent offense" seems to address this issue.

Additionally, the OAG states the ignition interlock exemption that would be created in proposed subsection (E)(1) may create a gap in this state's ignition interlock requirements. For instance, it is reasonable to envision a New Mexico resident who leaves and establishes temporary residency

– perhaps for college or work relocation – in a neighboring state, but retains his or her New Mexico driver’s license. If that person is convicted of DWI in the neighboring state and then completes all the requirements of the sentence imposed upon him or her, that driver would appear to have no interlock requirement placed upon him or her in New Mexico under the proposed amendment.

**RELATIONSHIP**

SB 136 relates to HB 22 DWI for Certain Drugs and Interlocks, HB 49 DWI interlock Requirements and HB 74 Sentencing of Felony DWIs.

Duplicates HB 31 - Drivers’ License for Some with Only 1 DWI.

**TECHNICAL ISSUES**

The AGO points out SB 136 adds the language “of the person’s most recent offense” to the first sentence of Sec. 66-5-5(E) NMSA 1978. This new language may not be necessary to effectuate the intent of the bill, and may invite unforeseen litigation regarding the exact intent of the language. The language is not entirely clear and could be clarified.

TR/sb/jle/al