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FISCAL IMPACT REPORT

SPONSOR Figueroa/Trujillo **ORIGINAL DATE** 2/16/19
LAST UPDATED 3/08/19 **HB** 491/aHJC/aHF1#1
SHORT TITLE Immobilizing or Towing of Certain Vehicles **SB** _____
ANALYST Glenn

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY19 | FY20 | FY21 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|------|------|----------------------|------------------------------|------------------|
| Total | | NFI | NFI | | | |

(Parenthesis () Indicate Expenditure Decreases)

Relates to: HB 295, HB 424, HB 522, HB 523, SB 25, SB 279

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)

Public Regulation Commission (PRC)

SUMMARY

Synopsis of HF1#1 Amendment

The House Floor #1 amendment changes the definition of “parking facility” as used in the bill so that it means property used for vehicle parking that “exclusively” serves multifamily housing rather than “wholly or partly.” The amendment effectively narrows the bill’s coverage by reducing the number of parking facilities potentially subject to the bill’s limitations on towing or immobilizing vehicles.

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 491 removes a vehicle that is “parked on grass, landscaping or a curb: 1 from the list of vehicles a person may not tow or immobilize without advance notice to the vehicle’s owner or operator; changes the time for providing the advance notice from ten to seven days; and clarifies that it is an unfair or deceptive trade practice for a towing service to tow or immobilize a vehicle for the reasons listed in the bill unless advance notice to the owner or operator is provided.

Synopsis of Original Bill

House Bill 491 adds a new section to the Unfair Practices Act making it an unfair or deceptive trade practice to tow or immobilize a vehicle in a parking facility that serves multifamily housing if the vehicle: (1) has an expired validating sticker on the license plate; (2) has a missing license plate; (3) occupies two parking spaces; (4) is parked on the parking stripe or on grass, landscaping or a curb; (5) is backed into a parking space; (6) has a flat tire; or (7) is mechanically unfit or unsafe to be operated or moved on the highway.

The bill prohibits a contract to provide towing services from allowing towing under the above enumerated circumstances unless the contract requires that the owner or operator of the motor vehicle be given 10 days written notice that the vehicle will be towed from the parking facility at the owner's or operator's expense. The bill specifies requirements for the contents and delivery of the written notice.

The bill states that the new section shall not be construed to authorize an owner or operator of a motor vehicle to leave an unattended vehicle on property not intended for parking or affect the disposition of abandoned motor vehicles under the Motor Vehicle Code.

HB 491 amends Section 65-2A-33 of the Motor Carrier Act to authorize the attorney general or a person who has been damaged to bring an action under the Unfair Practices Act against a towing service that commits an unfair or deceptive trade practice as described in the bill. The bill provides that any civil action shall be addition to, and shall not bar, any investigation or criminal enforcement action that is available to the attorney general or a district attorney.

The effective date of HB 491 is July 1, 2019.

FISCAL IMPLICATIONS

None noted.

ADMINISTRATIVE IMPLICATIONS

PRC states that the bill does not present administrative or other issues for the PRC because HB 491, as written, does not explicitly make the restriction on towing vehicles in parking facilities serving multifamily housing a violation of the Motor Carrier Act.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to the following bills that amend the Unfair Practices Act:

HB 295 Health Security Act

HB 424 Expand Phone Solicitation Restrictions

HB 522 Unlawful Auto Renewal of Certain Contracts

HB 523 Unlawful Auto Withdrawal of Funds

SB 25 No Differential Pricing Based on Gender

SB 279 Health Security Act

BG/gb/al/gb