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FISCAL IMPACT REPORT

SPONSOR Rehm/Pettigrew LAST UPDATED _____
ORIGINAL DATE 1/26/23
BILL _____
SHORT TITLE Tort Immunity for Shoplifter Apprehension NUMBER House Bill 57
ANALYST Campbell

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal			
Total						

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
New Mexico Attorney General (NMAG)
Department of Public Safety (DPS)
Public Defender Department (PDD)

No Response Received

New Mexico Sentencing Commission (NMSC)
Administrative Office of the District Attorneys

SUMMARY

Synopsis of House Bill 57

House Bill 57 grants merchants immunity from tort liability for injuries and damages alleged to result from the merchant's detention of persons suspected to be shoplifting.

FISCAL IMPLICATIONS

All responding agencies indicated there would be minimal fiscal impact.

SIGNIFICANT ISSUES

The Administrative Office of the Courts (AOC) notes that the bill may be unnecessary because it

largely duplicates New Mexico’s “Shopkeeper’s Privilege” as codified at Section 30-16-23 NMSA 1978.

Section 30-16-23 NMSA 1978 provides immunity from criminal and civil liability when a suspected shoplifter is detained “in a reasonable manner for a reasonable time.” AOC notes that HB57 defines “reasonable manner” in terms of the length of time of the detention and of the merchant’s suspicion, without any limits or other specifications about the means used to effect the detention.

PERFORMANCE IMPLICATIONS

AOC notes that the bill may have an impact on its performance-based budgeting metrics, specifically:

- Cases disposed of as a percent of cases filed.
- Percent change in case filings by case type.

TECHNICAL ISSUES

AOC notes that the definition of “merchant” in HB57 is narrower than that found in Section 30-16-19 NMSA 1978. The existing statute defines “merchant” to mean an owner or proprietor of a store, or an agent, servant or employee of the owner or proprietor. In contrast, HB57 defines “merchant” to mean simply a person or business that sells good to the public for use or consumption rather than resale. The HB57 definition includes a business within the definition but does not specifically include agents, servants or employees of the business. Thus, there could be ambiguity as to who is actually protected by HB57’s granting of immunity for liability.

JBC/al/ne