

LFC Requester: _____

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: January 25, 2025 *Check all that apply:*
Bill Number: HB 106 Original Correction
 Amendment Substitute

Sponsor: Andrea Reeb **Agency Name and Code Number:** Administrative Office of the District Attorneys 264
Short Title: DWI BLOOD TESTING **Person Writing:** Troy Davis
Title: _____ **Phone:** 5053858461 **Email:** Davistr@msn.com

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 106 amends Section in 66-8-102, 103, 104, 111 and section 66-13-6 and 66-13-7.

Section 2, Section 66-8-103 NMSA 1978 replaces the term “laboratory technician” with “emergency medical technician or certified phlebotomist” with respect to who shall draw the blood sample, and replaces the term “blood-alcohol” with “chemical blood test.”

Section 3, Section 66-8-104 NMSA 1978 clarifies that officers are only allowed to make an arrest or direct the performance of chemical blood test while on official duty.

Section 4, Section 66-8-111(A) NMSA 1978 allows a law enforcement officer to obtain a search warrant for a chemical blood test if there is probable cause to believe a person was under the influence of alcohol, cannabis, or a controlled substance when they caused the death or great bodily injury of another or committed a felony or a misdemeanor. If a person refuses a chemical test and did not cause great bodily injury of another, or if there was probable cause to believe a person had committed a misdemeanor while under the influence of those substances, the person’s charge may be elevated to aggravated. This section also defines “cannabis” very broadly to mean all parts of the plant, extracts from the plant, and products made from the plant, including edible or topical products.

Section 5, Section 66-8-111.1(A) NMSA 1978 is amended to make applicable Section 66-8-111 NMSA 1978 as it pertains to obtaining a chemical test and serving notices.

Section 6, Section 66-13-1 NMSA 1978 is amended to update section references in NMSA 1978 applicable to the “Boating While Intoxicated Act.”

Section 7, Section 66-13-6 NMSA 1978 identifies who is qualified to perform a chemical blood test and limits their liability in civil or criminal actions, except if negligent.

Section 8, Section 66-13-7 NMSA 1978 clarifies under the Boating While Intoxicated Act, officers shall only make an arrest or obtain a chemical blood test if on official duty.

FISCAL IMPLICATIONS

Financial increases for law enforcement, prosecutors, and public defenders. Add expense to pay for laboratory technicians.

SIGNIFICANT ISSUES

Adding the words “or misdemeanor” on page 13, line 25 would allow law enforcement to obtain a search warrant where there is probable cause to believe a person is driving under the influence and refused to submit to testing. This is referred to as the Birchfield Fix.

Presently, the only way that law enforcement can obtain a search warrant for chemical

testing is if the person who was driving while under the influence thereby causing the death or great bodily injury of another person, or the person committed a felony while under the influence. See *Birchfield v. North Dakota*, 136 S.Ct. 2160.

HB 158 also addresses the issues surrounding the legalization of cannabis and the use of cannabis by drivers in New Mexico.