

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 28, 2025

Bill: HB-567

Sponsor: Representatives Jimmy G. Mason and Randall T. Pettigrew

Short Title: DWI Saliva Testing

Description: This bill adds oral fluid tests to the chemical tests that may be used to determine if a driver is under the influence of an intoxicating liquor or drug.

Effective Date: Not specified; 90 days following adjournment (June 20, 2025).

Taxation and Revenue Department Analyst: Htet Gonzales and Sean Bulian – Motor Vehicle Division

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2025	FY2026	FY2027	FY2028	FY2029		
	(\$2.5)				NR	MVD Suspense Fund

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: It is unknown how many DWI citations will be issued by law enforcement from the use of the new oral fluid chemical test this bill provides for. Each DWI citation book costs MVD about \$4.26. MVD Central Supply currently has about 535 citation books on hand, and it is estimated that there are about 1,465 citation books currently in the possession of law enforcement in New Mexico that would need to be replaced with an updated DWI citation book that includes the oral fluid test this bill provides for.

Policy Issues: Without knowing the science behind the specific oral fluid test that will be used, it is difficult to comment on the bill with specificity. That said, it appears that the bill allow a driver’s license to be revoked under the Implied Consent Act if the results of the oral fluid test “indicate the presence of a controlled substance.” The bill doesn’t require any measurable degree of impairment for controlled substances as it does with alcohol (blood alcohol content pf .08 or higher). As such, the bill may result in revoked licenses of drivers who were not impaired while operating a vehicle. “[T]he presence of a drug does not always indicate impairment; THC can be detected after passive exposure; many medications can cause false positives; and many drugs can be detected long after their impairing effects have worn off.” Wise, Ian (2024) “The Use of Oral Fluid Samples to Test for Driving Under the Influence of Marijuana,” *Georgia Criminal Law Review*. Vol. 2: No. 1, Article 4, pp. 118-119. “Marijuana is not the only substance containing THC to cause concerns related to DUID. In 2018, Congress legalized hemp, an agricultural product that, like marijuana, metabolizes into a large number of chemicals including cannabidiol (CBD) and THC. A study conducted prior to the legalization of hemp in the United States showed that THC metabolites were detected in oral fluid and blood samples after high doses of hemp. Another study using CBD products showed that smoking one CBD cigarette resulted in positive THC results one hour after smoking. This is especially important as it relates to jurisdictions with zero tolerance statutes because CBD does not impair driving.” Id. at pp. 109-110.

Technical Issues: A redesigned DWI citation and notice of revocation form will need to be created. Communication to all law enforcement would be required to notify them that the current DWI citation books need to be replaced and that new citation books will need to be ordered from MVD Central Supply once available.

Other Issues: MVD’s DWI section will need to be trained on this change to ensure that the appropriate violation is entered in the Tapestry system.

Administrative & Compliance Impact: Implementation of this bill will have a high impact on Tax & Revenue’s Information Technology Division (ITD). The estimated time to develop, test and implement the changes is approximately 1000 hours or 6 months and approximately \$296,640 (\$230,000 contractual resources including gross receipts tax, and staff workload costs of \$66,640).

This bill requires system changes to add oral fluid tests to the chemical tests that may be used to determine if a driver is under the influence of an intoxicating liquor or drug.

Considering the effort required, the effective due date of 6/20/2025 will not be feasible. A more feasible effective date would be 1/1/2026.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2025	FY2026	FY2027	3 Year Total Cost		
	\$230			NR	MVD – Contractual Resources
	\$66.6			NR	MVD Suspense Fund – Staff Workload Cost

* In thousands of dollars. Parentheses () indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).

Related Bills:

