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FISCAL IMPACT REPORT

ORIGINAL DATE 02/24/09
 SPONSOR HTRC LAST UPDATED 03/16/09 HB 29/HTRCS/aHJC/aSJC
 SHORT TITLE Motor Vehicle Insurance Violations SB _____
 ANALYST Lucero

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	\$0.01	Recurring	MVD Operating Fund

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	\$1,275.0	\$1,147.5	Recurring	MVD Operating Fund
	\$0.01	\$0.01	Recurring	General Fund

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.01			Non-Recurring	MVD Operating Fund

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Taxation and Revenue Department (TRD)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of SJC Amendment

Senate Judiciary Committee (SJC) amendment to House Taxation and Revenue Committee (HTRC) substitute for House Bill 29 provides a technical correction/clean-up to language the bill proposed to delete but the amendment does not provide for a substantive change to the bill.

Synopsis of Original Bill

HTRC substitute for House Bill 29 proposes to amend portions of the Motor Vehicle Code. This bill imposes an additional reinstatement fee of \$75 if the registration for a vehicle was suspended for failure to comply with the Mandatory Financial Responsibility Act (MFRA), and appropriates the additional fee to the Motor Vehicle Division (MVD) for the purpose of enforcing the MFRA. The department shall maintain an accounting of the fees collected and shall report that amount upon request to the legislature. The bill also changes the penalty for uninsured motor vehicles from a misdemeanor with a fine not to exceed \$300 to a “penalty assessment” misdemeanor with a \$75 fine. The \$75 fine shall not be lowered, suspended, deferred, or taken under advisement.

Additionally, the bill amends the portion of the law regarding the requirements that are to be followed at the time of citation to allow law enforcement officers discretion to issue a temporary operation sticker or remove a vehicle license plate for a violation of MFRA (currently, license plate removal may occur only when the driver is involved in an accident) and clarifies that temporary operation stickers issued to drivers who have been cited for a violation of the MFRA shall not create liability on the part of the officer or the Taxation and Revenue Department for damages arising from the future operation of the vehicle. The (reinstatement) fee for replacing a plate that has been removed or defaced by a law enforcement officer for failure to comply with the MFRA is increased from \$25 to \$100.

The bill additionally prohibits law enforcement officers from charging a person with failure to carry evidence of financial responsibility if he can verify the person’s compliance with MFRA by checking a computer database that is immediately available to the officer.

FISCAL IMPLICATIONS

The Taxation and Revenue Department (TRD) notes that the MVD operating fund revenue impact is based on approximately 17,000 reinstatements per year, times the \$75 increase in reinstatement fees. Declining amounts in future years reflect assumed increased compliance.

The revenue impact to the general fund reflects increased penalty assessment fines, lessened by a decrease in misdemeanor fines, but an overall positive fiscal impact. The MVD has no information on the number or level of fines imposed under the existing statute, but it is presumed to be small (see Other Issues).

The Administrative Office of the Courts (AOC) anticipates supporting a separate bill that eliminates jury trials for penalty assessment misdemeanors. If this other bill passes and is signed into law, HB29 would reduce the number of potential jury trials in magistrate courts for uninsured vehicles to zero. This would help reduce the stress on the existing resources in magistrate courts. Additionally, there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes.

SIGNIFICANT ISSUES

This bill provides officer discretion when issuing a citation for operating a vehicle without insurance. Additionally, the reinstatement fee will increase from \$25.00 to \$100.00. Police Officers will also be able to issue a penalty assessment to drivers who operate a vehicle without insurance.

The MFRA currently requires that an owner have proof of financial responsibility in the vehicle. The bill amends Section 66-5-229 (Section 4, page 9, lines 1-5 of the bill), to allow that evidence of compliance might also be contained in a database that a police officer can check.

The penalty for noncompliance with the MFRA is currently a misdemeanor violation requiring a court appearance and a variable fine “not to exceed” \$300. The bill proposes to change the misdemeanor to a “penalty assessment” violation at a fixed amount of \$75; however, the fine shall not be lowered, suspended, deferred, or taken under advisement. The AOC believes the changes may reduce the caseload burden on the courts

The increased reinstatement fee may result in increased compliance with the MFRA requirement that drivers must maintain liability insurance. While some number of fines may be imposed for failure to have insurance, probably many more are identified through the New Mexico Insurance Identification Database (IIDB), resulting in suspension of the vehicle registration but without imposition of misdemeanor fines.

PERFORMANCE IMPLICATIONS

The proposed bill is designed to decrease the uninsured rate. If made law, this bill may close loopholes, increase compliance and make people more inclined to purchase and maintain insurance. Since 2002, MVD has been funded to implement the MFRA, which requires that vehicles maintain liability insurance. Since then the uninsured driver rate has gone from among the worst in the nation at 33% to below the national average of 14%. The current uninsured rate in New Mexico is approximately 10%.

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type; and
- Number of jury trials.

ADMINISTRATIVE IMPLICATIONS

The bill would provide MVD with resources which would be used to fund programs designed to further reduce the uninsured driver rate in New Mexico and to increase compliance with insurance requirements. There may be minor cost to MVD for procedural and computer system changes to impose and account for the increased reinstatement fee.

Extension of plate removal or defacement to non-accident-related MFRA citations will add to MVD workload by increasing the number of plates that have to be reissued upon reinstatement. The extent of administrative cost associated with this provision has not been quantified since removal of a plate is subject to the police officer’s discretion, but the impact could be significant.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to Appropriation in the General Appropriation Act

TECHNICAL ISSUES

On page 5, lines 21-22, the \$100 reinstatement fee is presumably the same reinstatement fee provided in Section 1 of the bill (\$25 plus an additional \$75). This should probably be more clearly specified, either by referencing a “reinstatement fee as specified in Section 66-5-33.1 NMSA 1978”, or if a \$200 total fee is intended, specifying “in addition to the reinstatement fee specified in 66-5-33.1 NMSA 1978, an additional reinstatement fee of \$100.”

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