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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 02/04/14

**SPONSOR** Sharer **LAST UPDATED** \_\_\_\_\_ **HB** \_\_\_\_\_

**SHORT TITLE** Motor Vehicle Licensing Violation Penalties **SB** 219

**ANALYST** Boerner

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See Fiscal Implications	See Fiscal Implications			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General’s Office (AGO)

Public Defender’s Office

### SUMMARY

#### Synopsis of Bill

Senate Bill 219 bill adds a new subsection (B) to the Section 66-4-9 providing for enhanced penalties for violations of five motor vehicle licensing/regulatory statutes.

A person who violates any provision of Sections 66-4-1, 66-4-2, 66-4-2.2, 66-4-6 and 66-4-7 NMSA 1978 is guilty of a misdemeanor and shall be punished by a fine \$1,000 or by imprisonment for not less than thirty days, or both. The penalty for a second conviction for any of those sections is that provided for a fourth degree felony or a fine of five \$5,000 or both. The penalty upon third or subsequent conviction of a violation of any provision of those sections is as for a second degree felony or a fine of \$10,000 or both, and the person’s dealer license shall be permanently revoked.

The titles of the referenced statues are as follows:

66-4-1 Dealers, wreckers, wholesalers and distributors of vehicles and title service companies must be licensed; presumption of conducting business.

66-4-1 Dealers, wreckers, wholesalers and distributors of vehicles and title service companies must be licensed; presumption of conducting business.

- 66-4-2 Department to issue license.
- 66-4-2.2 Off-site sales.
- 66-4-6 Place of business.

66-4-7 Dealers, wholesalers, distributors and auto recyclers; title service companies; dealers of motorcycles only; bond.

The bill also amends subsection (A) of 66-4-9 by deleting the existing references in the subsection to 64-3-119 and 64-3-121, 64-3-123 through 64-3-125 and 64-4-1 through 64-4-9 NMSA 1953 (citations are out-of-date and need to be updated to the current statutory citations for the similar/updated statutes in Chapter 66 of the NMSA 1978) and adds language to subsection to include the current statutory citations 66-3-119, 66-3-121, 66-3-123 through 66-3-125, 66-4-1.1 and 66-4-3 through 66-4-5 NMSA 1978.

Note the titles of the referenced statutes are as follows:

- 66-3-119 Vehicle or motor vehicle to be dismantled.
- 66-3-121 Disposal of abandoned vehicle or motor vehicle.
- 66-3-123 Requirements of purchaser; forms; distribution.
- 66-3-124 Department to provide forms.
- 66-3-125 Restrictions upon licenses.
- 66-4-1.1 Auto recycler licensee; presumption of conducting business.
- 66-4-3 Refusal to issue license; cancellation or suspension of license or use of temporary permits; hearing; appeal.
- 66-4-4 Criminal offender’s character evaluation.
- 66-4-5 Records of purchases, of sales and of vehicles dismantled.

[Subsection (A) of the existing statute sets criminal penalties for violations of the listed statutes to provide for a misdemeanor penalty for a first conviction of any of the listed statutes carrying a sentence of up to \$300 dollars or imprisonment for at least 30 days or both. Subsection (B) provides that a second conviction for a violation of one of the statutes listed in the subsection shall be a fourth degree felony.]

## **FISCAL IMPLICATIONS**

The bill raises penalty levels for repeated violations of several statutes, therefore, it creates the potential for an increased number of criminal offenders to be prosecuted for felony offenses and to serve prison sentences (or longer prison sentences than previously provided.) Increased costs to the judicial system, the district attorneys, public defenders, county jails and Department of Corrections could result.

## **TECHNICAL ISSUES**

On page 2, lines 8-11 new language states that, “The penalty upon second conviction of a violation of any provision of those sections is that provided for a fourth degree felony or a fine of \$5,000 or both.”

As written, it appears that upon a second conviction of a violation of said provision, a person may receive a penalty of a fourth degree felony or a fine \$5,000, or both—as though one could

receive a fine of \$5,000 without an accompanying fourth degree felony. It is not clear if that was the intent of the drafter or if perhaps an imprisonment portion of the penalty might have been omitted.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The law regarding penalties for these statutes will remain unchanged.

CB/svb