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FISCAL IMPACT REPORT

SPONSOR: Park DATE TYPED: 02/10/03 HB 39/aHGUAC

SHORT TITLE: State Employee Driving Privileges SB _____

ANALYST: Geisler

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			300.0 See Narrative	Recurring	GF/OSF

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

General Services Department (GSD)
 State Highway & Transportation Department (NMSHTD)
 Office of the State Engineer (OSE)
 Department of Health (DOH)

SUMMARY

Synopsis of HGUAC Amendment

The amendments` specify that DUI convictions within the last ten years would count toward the prohibition.

Synopsis of Original Bill

House Bill 39 would prohibit state employees with two or more convictions for DUI or one conviction for aggravated DUI from operating a state motor vehicle. DUI convictions under local jurisdictions or similar laws from other states would be counted. The new section would be compiled in the enabling act of the Transportation Services Division (TSD) of the General Services Department (GSD).

Significant Issues

This bill goes beyond the existing TSD rule which requires a valid driver's license to operate a state vehicle. The state's liability could be reduced by this prohibition. The kind of research mandated by this bill may require National Crime Information Center (NCIC) checks across state

jurisdictions. Whether these background checks will be the responsibility of individual agencies or be a centralized function remains unclear.

Employees whose state job requires driving but who have prior convictions which are many years old would be prohibited from driving a state vehicle. Could such employees be accommodated in other jobs that do not require driving a state vehicle?

FISCAL IMPLICATIONS

NCIC checks on state employees who must drive state vehicles or personal vehicles as part of their job duties could be required to determine DUI/ DWI convictions, especially those in other states. If NCIC checks were required, the cost could be in the range of \$50 per check, including staff support. The actual price for the NCIC raw data is \$32 per check and then staff must follow-up on positive hits to determine if arrests resulted in convictions. Data on convictions is often not in the raw NCIC data.

The Department of Public Safety could do these checks for \$50. GSD has arbitrarily estimated a first year cost of \$300.0, which would accommodate 6,000 NCIC-based checks. The recurring costs would depend on the number of new employees hired who would require the background check.

The scope of the fiscal impact is unknown for agencies not under TSD jurisdiction. One option to reducing the start-up cost may be to make it a termination offense if an employee fails to self-report prior convictions. While not as reliable as an NCIC based check, it could avoid the fiscal impact of the checks.

This law could result in lower insurance premiums for the state by reducing risks and asserting to insurance companies that we have a system designed to preclude persons with DUI/DWI convictions from driving state vehicles. A year of test data would be required to adequately estimate what reductions in premium costs might be.

ADMINISTRATIVE IMPLICATIONS

The process of hiring employees into positions that require use of a state vehicle would be lengthened by the amount of time it would take to conduct a NCIC check for prior DUIs in addition to checks on current state employees.

OTHER SUBSTANTIVE ISSUES

Section 15-8-5 NMSA 1978 authorizes TSD to “establish and enforce standards for drivers of state vehicles, including revoking driver privileges”. Section 15-8-3 NMSA 1978 defines “state vehicle” as “an automobile, van, sport utility truck, pickup truck or other vehicle used by a state agency to transport passengers or property”. The current rule requires a valid driver’s license to operate a state vehicle, prohibits operating a vehicle under influence of alcohol or drugs, and requires automatic suspension of authorization to drive a state vehicle if a state employee’s driver’s license expires, is revoked or suspended. TSD or an agency may suspend an employee’s authorization for failure to comply with any provision of the TSD rule, which includes a section on drug and alcohol use. State agencies are required to report to TSD any suspension or revocation. (1.5.3.18 NMAC)

TSD conducts driver standards checks on a periodic basis for all drivers of state-owned vehicles and also for state employees who lease a TSD vehicle on a short-term basis. In 2002, state agencies were requested to provide GSD with a list of all their employees who drive a state car. Because compliance was slow, a cross-check was done of 23,000 employees comparing name and date of birth from state payroll records with TRD / MVD and 1,100 employees were reported as not having a valid driver's license. Reasons include DUI revocation, failure to pay child support, failure to appear in court, traffic violations, a person simply forgot to renew, or because of operational difficulties with MVD records. Approximately 20% of the reports were inaccurate because of such things as MVD field office records had not been properly input into the main MVD data system and misspelled names.

The State Highway and Transportation Department has an Administrative Directive that provides for the dismissal of an employee in the event the employee's license is suspended or revoked or officially taken for a period of more than 90 days and the license is required as a condition of employment. This directive has been in effect since 07/01/99 and as of this date twenty-two employees have been dismissed in accordance with this policy.

ALTERNATIVES

- Require random drug and alcohol testing of personnel authorized to drive state vehicles.
- Centralized monitoring of DUI convictions could be established in TSD or TRD Motor Vehicle Division to include all state vehicles in the executive, legislative and judicial branches.
- A new DUI arrest or conviction could be the trigger to research an employee's driving records and then count prior offenses as opposed to doing background checks on all employees.
- The bill could specify a number of years for research of recent DUI convictions as opposed to unlimited past prior offenses. This would provide a "grace period" for those who had convictions decades or more in the past.

TECHNICAL ISSUES

The definition of "state vehicle" should be clarified to ensure it covers all vehicles used in state business, including leased/rented GSD vehicles, commercial rental cars, and state employed personal vehicles.

AMENDMENTS

GSD suggests consideration of the following amendments:

1. Require that employees who drive state vehicles be required to submit to random drug and alcohol tests. If they test positive, remove their driving privileges.
2. Add an Emergency Clause, since this is an important issue.

GGG/prr