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FISCAL IMPACT REPORT

SPONSOR: Cervantes DATE TYPED: 03/11/03 HB 963

SHORT TITLE: Revoked and Suspended Driver's Licenses SB _____

ANALYST: Hayes

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	(\$0.1)	(\$0.1)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

\$0.1 = Fiscal impact unknown

Conflicts with HB 139, SB 82, SB 248 and SB 471

SOURCES OF INFORMATION

Responses Received From

Administrative Office of the Courts (AOC)
 Bernalillo County Metropolitan Court (BCMC)
 Taxation and Revenue Department (TRD)
 Children, Youth and Families Department (CYFD)
 State Highway and Transportation Department (SHTD), Traffic Safety Bureau

SUMMARY

Synopsis of Bill

House Bill 963 amends various sections of the Motor Vehicle Code in the following manner:

- A. *Amends Section 66-5-39.A* to differentiate penalties between a person who drives a motor vehicle with a suspended driver's license versus a person who knowingly drives with a revoked license; only those with a revoked driver's license are guilty of a misdemeanor.
- B. *Amends Section 66-5-39.C* to state that MVD, upon receiving a record of the conviction of a person charged with driving a vehicle with a revoked license, shall not issue a new license to that person for one year. It excludes drivers who have a suspended license.

- C. *New Material*, Section 66-5-39.1 changes the penalties for those convicted of driving with a suspended license. The person shall be guilty of a petty misdemeanor and shall be assessed a fine of not more than \$300.0. Upon a second or subsequent conviction, the person shall be imprisoned for not less than 2 days or not more than 90 days, and a fine of not more than \$300.0 may also be imposed by the court. In addition, MVD shall extend the period of suspension for an additional like period.
- D. *New Material*, A minor shall be accompanied by a parent or guardian when appearing in metropolitan, magistrate or municipal court pursuant to traffic penalty assessment misdemeanor, a traffic misdemeanor or a moving violation charge.

Significant Issues

1. According to the Traffic Safety Bureau, research has shown that revocation or suspension of a driver's license alone does not significantly deter the offender from driving. Most offenders who have a driver's license revoked or suspended will continue to drive unless there are significant consequences if the offender is caught driving with a suspended or revoked license. Reducing the penalties for driving on a suspended license may have a negative impact on state goals for improving public safety on the road.
2. The bill puts the penalty for driving on a suspended license into a new Section 66-5-39.1. Under this section, MVD extends the period of suspension for an additional "like period." According to TRD, this language creates a problem because not all suspensions are for definite time periods, making it very difficult for MVD to extend the suspension period for an additional like period.
3. Though not expressly defined in the N. M. Motor Vehicle Code (NMSA 1978, §§66-1-1, *et seq.*), one can infer from the context of various sections that the term "minor" likely refers to those persons under the age of 18. See, eg., NMSA 1978, §66-5-11, §66-5-13 & §66-5-40. This conclusion is also consistent with the jurisdictional exception provided in the N. M. Children's Code conferring original, exclusive jurisdiction over most driving-related traffic offenses committed by a child on the magistrate, metropolitan and municipal courts. See, NMSA 1978, §32A-1-4 B & §32A-2-29. Some of the persons in this age category have, however, become legally "emancipated" by virtue of: a valid marriage, on active military duty or a court order. See, NMSA 1978, §§32A-21-1, et seq. Does the bill intend to exempt the parents of emancipated minors from the requirement of being present at a "minor's" traffic court proceedings?
4. Another issue related to "minors" is divorced parents. Does the requirement of parental accompaniment only pertain to the parent having primary custody of the cited minor? What if the traffic violation allegedly occurred while the minor was visiting the non-custodial parent? What if one or both parents reside outside New Mexico? This circumstance would likely pose significant jurisdictional barriers to any enforcement efforts aimed at a non-resident parent.
5. House Bill 963 does not establish the consequences for a parent's failure to attend the traffic-related court proceedings of their "minor" child. To address this issue, the bill could be amended to expressly authorize the courts to issue an order to show cause why the parent should or should not be held in contempt for their failure to comply with this

requirement. If the court uses its contempt powers to enforce this requirement, then an increase in the court's caseload will likely occur with regard to hearings associated with alleged failures by parents to attend their minor child's court proceedings.

FISCAL IMPLICATIONS

Since the fine imposed for those convicted of driving with a suspended driver's license is being reduced from \$1,000 to \$300, there will be a loss of revenue to the state's general fund. However, none of the agencies or courts responding to LFC's request for information provided a dollar estimate for the reduction in revenue if this bill were enacted. Therefore, the specific fiscal impact is not known.

ADMINISTRATIVE IMPLICATIONS

TRD claims that systems-related expenses to program new violation codes to distinguish between a minor offender and an adult offender will cost the department approximately \$6,000.

Reference has already been made to the potential increase in caseload for the courts.

CONFLICT

HB 139, DWI Vehicle Seizure
SB 82, Mandatory Vehicle Immobilization
SB 248, DWI Vehicle Seizure
SB 471, Motor Vehicle License Suspensions

CMH/njw