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FISCAL IMPACT REPORT

SPONSOR: Altamirano DATE TYPED: 2/11/03 HB _____
 SHORT TITLE: Limited License Availability SB 245/aSPAC
 ANALYST: Maloy

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative	Recurring	General Fund

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
		Significant See narrative	Recurring	Federal Highway Construction Fund

(Parenthesis () Indicate Revenue Decreases)

Duplicates HB 249.

Relates to, and possible conflicts with, HB 189, HB 250, HB 327, HB 333, HB 335, HB 341, HB 405, HB 415, SB 16, SB 84, SB 93, SB 242, SB 245, SB 248, SB 259, SB 260, SB 262, SB 263, SB 264, SB 267, and SB 313.

SOURCES OF INFORMATION

Responses Received From

Highway and Transportation Department, Traffic Safety Bureau
 Administrative Offices of the District Attorney
 Department of Corrections
 Department of Public Safety

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to SB 245 is as follows:

1. On Page 1, Line 14, after the semicolon insert “PROVIDING FOR IMMOBILIZATION OF A SUBSEQUENT OFFENDER’S MOTOR VEHICLE:”.
2. On Page 13, Lines 10 and 11, insert the following new subsection:

“L. Upon any subsequent conviction pursuant to this section, as a condition of probation, a subsequent offender shall be required to have the motor vehicle he was driving immobilized for a period of five days, pursuant to rules adopted by the bureau, unless immobilization of the motor vehicle causes an undue hardship to the subsequent offender’s immediate family or the family of the owner of the motor vehicle. The subsequent offender shall bear the cost of immobilizing the motor vehicle.”
3. Reletter the succeeding subsections accordingly.

This amendment adds another consequence for subsequent DWI offenders. The added consequence is noted in the title change.

Synopsis of Original Bill

- Senate Bill 245 amends sections of the limited driver’s license provisions of the Motor Vehicle Code so to delete the language that currently allows subsequent DWI offenders to possess a limited license, even with an ignition interlock device.
- Under SB 245, only a first time DWI offender could receive a limited driver’s license if:
 1. the offender enrolled in a DWI program, and
 2. has valid auto insurance, and has proof of employment, or is in school, and needs to travel to and from, or
 3. has enrolled in treatment.
- SB 245 still requires that an offender demonstrate to the DMV that a limited license is required to engage in gainful employment and/or attend school, or a court-ordered treatment program.
- SB 245 denies limited licenses to subsequent DWI offenders under any circumstances.
- SB 245 also increases the minimum jail sentence for a second offense to not less than 5 consecutive days (increased from 72 hours).
- Finally, SB 245 provides that a subsequent DWI offender who refuses to submit to a chemical test during a DWI investigation will have his license revoked for a period of one year. The bill eliminates any exceptions to this mandatory term of revocation.

Significant Issues

- Currently, New Mexico’s Federal Highway construction fund is being sanctioned (by way of a transfer) yearly for not having all of the following repeat DWI offender laws in place. The sanctions have resulted in transfers totaling \$12 million.

The Federal interim final rule provides that, to avoid a transfer of funds, a State must meet the following requirements (for 2nd and subsequent DWI offenders):

1. A minimum one-year license suspension. The offender cannot be eligible for any driving privileges, such as a restricted or hardship license. Currently, New Mexico does not meet this requirement, but would with enactment of this bill.
 2. Impoundment or immobilization of, or the installation of an ignition interlock system on, motor vehicles. The State's law must require the impoundment or immobilization of, or the installation of an ignition interlock on, all motor vehicles owned by the repeat intoxicated offender. To comply with this criterion, the State law must require that the impoundment or immobilization be imposed during the one-year suspension term, or that the ignition interlock system be installed at the conclusion of the suspension period. Currently, New Mexico does not meet this requirement.
 3. An assessment of their degree of alcohol abuse, and treatment as appropriate. The State's law must require that all repeat intoxicated drivers undergo an assessment of their degree of alcohol abuse and the law must authorize the imposition of treatment as appropriate. Currently, New Mexico does comply with this requirement.
 4. Mandatory minimum sentence. The State's law must impose a mandatory minimum sentence on all repeat intoxicated drivers. For a second offense, the law must provide for a mandatory minimum sentence of not less than five days of imprisonment or 30 days of community service. For a third or subsequent offense, the law must provide for a mandatory minimum sentence of not less than ten days of imprisonment or 60 days of community service. Currently, New Mexico does not meet these requirements, but would with the enactment of this bill.
- The consequences for driving on a revoked license must be significant and readily enforced in order to make the revocation provisions meaningful and effective. DWI offenders are known for their failure to comply with court orders prohibiting their driving. At this time, driving on a revoked license is a misdemeanor, the penalty for which may be a term of incarceration. Thus, if diligently enforced, the result could be a considerable rise in the number of DWI offenders incarcerated.
 - An increase in the mandatory penalties will likely result in more DWI offenders going to trial, rather than entering into plea agreements. This will impact the District Attorneys Office, Public Offenders Office, Courts and, if convicted, the Corrections Department.

FISCAL IMPLICATIONS

- If New Mexico came into compliance with all Federal requirements for the federal highway construction fund, the fund would cease to be sanctioned.

- The administrative impact on the DMV, state and local law enforcement agencies, the courts and the Corrections Department will result in higher costs for these agencies.

ADMINISTRATIVE IMPLICATIONS

- The heightened enforcement activities required of the DMV and state and local law enforcement personnel may result in a need for additional FTE and budget resources.
- The District Attorneys Office, Public Defenders Office, Courts and Correction Department will see an increase in trials, number of persons incarcerated, and length of incarceration.

SJM/prr