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FISCAL IMPACT REPORT

SPONSOR: Hurt DATE TYPED: 3/3/03 HB _____

SHORT TITLE: Motorcyclist Access to Public Accommodations SB 694

ANALYST: Chavez

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
NFI	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB 914

SOURCES OF INFORMATION

Bernalillo County Metropolitan Court (BCMC)
 Administrative Office of the Courts (AOC)
 Attorney General's Office (AG)
 LFC Files

SUMMARY

Synopsis of Bill

Senate Bill 694 enacts a new statutory section providing that a place of public accommodation may not restrict access, admission or usage to a person solely because the person operates a motorcycle, is a member of a motorcycle organization or association, or is wearing clothing that displays the name of a motorcycle organization or association.

Public Accommodation is defined as a business, refreshment, entertainment, recreation or transportation facility of any kind, whether licensed or not, whose goods, services, privileges or accommodations are extended, offered, sold or otherwise made available to the public.

Exceptions to the above provision are made. These exceptions provide that public accommodation may be restricted when the conduct of a person poses a risk to the health or safety of another

person, or to the property of another person, or their clothing does not conform to an established and posted dress code.

The bill provides for civil penalties not to exceed \$500 and allows a party to seek injunctive relief and attorney fees not to exceed \$500.

The effective date of the provisions of the act is July 1, 2003.

Significant Issues

The New Mexico Human Rights Act, § 28-1-7 NMSA 1978 provides for unlawful discriminatory practices. Among those included in this section are employers, labor organizations, joint apprenticeship committees, employment agencies, and persons who rent, sell, assign, lease or sublease. Included in this section are public accommodation restrictions.

Section 28-1-7 NMSA 1978 provides that it is an unlawful discriminatory practice for “*any person in any public accommodation to make a distinction, directly or indirectly, in offering or refusing to offer its services, facilities, accommodations or goods to any individual because of race, religion, color, national origin, ancestry, sex, spousal affiliation or physical or mental handicap, provided that the physical or mental handicap is unrelated to an individual’s ability to acquire or rent and maintain particular real property or housing accommodation*”.

This bill creates a protected class of motorcyclists with respect to public accommodation only. Thus, employers and other organizations included in § 28-1-7 NMSA 1978 of the New Mexico Human Rights Act may discriminate against those motorcyclists to whom this bill pertains.

Section 34-8A-3 provides that the jurisdiction of Bernalillo County Metropolitan Court (BCMC) includes the jurisdiction provided by law for magistrate courts. In accordance with § 35-3-3 NMSA 1978 BCMC has jurisdiction in civil actions in which the debt or sum claimed does not exceed \$5,000 exclusive of interest and cost. Section 35-3-3 NMSA 1978 further provides that a magistrate has no jurisdiction in any civil action to grant writs of injunction.

It is suggested by BCMC that to prevent parties who file for both damages and injunctive relief from filing in different courts, the remedial actions be heard in district court since BCMC is prohibited by statute from granting injunctive relief and can only award damages.

FISCAL IMPLICATIONS

This bill does not contain an appropriation. However, there will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes. Further, any additional fiscal impact to the judiciary, prosecutors or public defenders will be proportional to the enforcement of this law.

ADMINISTRATIVE IMPLICATIONS

The administrative implications to the judiciary, prosecutors or public defenders would be in proportion to the enforcement of this law.

DUPLICATION

Senate Bill 694 is identical to HB 914.

TECHNICAL ISSUES

1. Should the word “service” be included in Section 1, Subparagraph A where it states that a place of public accommodation may not restrict access, admission or usage to a person solely because the person operates a motorcycle, is a member of a motorcycle organization or association or is wearing clothing that displays the name of a motorcycle organization or association?

POSSIBLE QUESTIONS

1. Does a current problem exist regarding the denial of access to motorcyclists in places of public accommodation that requires enactment of this legislation?
2. Do motorcyclists constitute a group that should have a “protected class” status?

FC/prr