



cohol.” The amendment also corrects a drafting error to the section regarding mandatory license revocation for repeat offenders by referring to 4 or more convictions.

#### Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to the Senate Judiciary Committee substitute for Senate Bills 109, 187 & 603 restores the ability of a first time DWI offender to avoid mandatory license revocation by attending DWI school.

#### Synopsis of Original SJC Substitute Bill

The Senate Judiciary Committee substitute for Senate Bills 109, 187 & 603 requires that all DWI offenders have their driver’s licenses suspended and have ignition interlock devices installed on their vehicles for a set time-period as follows:

- A. First conviction: one year
- B. Second conviction: two years
- C. Third conviction: three years
- D. Fourth or subsequent conviction: the remainder of the offender’s life.

The bill provides that fourth or subsequent offenders may apply to the district court after 5 years (and every 5 years thereafter) to have the ignition interlock device requirement removed and/or their driver’s license restored provided there have not been any subsequent DWI convictions.

The bill removes the existing provisions of law that allow a first-time offender to receive either a driver’s license or a limited license after attending DWI school. The bill lengthens the time that a license must be revoked pursuant to the Implied Consent Act as follows:

- Six months if the person is over 21 and submitted to a chemical test pursuant to the Implied Consent Act
- One year for persons under 21 who submitted to a chemical test.
- One year for persons whose license had been previously revoked pursuant to the Implied Consent Act

Finally, the bill includes children adjudicated as delinquent for DWI in Section 66-8-102.3 NMSA 1978, relating to the interlock device fund. This has the effect of requiring the companies who install interlock devices to pay the existing fee for devices installed on minors’ vehicles, and allows money from the interlock device fund to pay for the installation of devices on a minor’s vehicle if the minor is indigent.

#### Significant Issues

Current law requires first-time offenders of aggravated DWI to have an ignition interlock device installed and operational for one year. The law provides that DWI offenders *may* be required to have an ignition interlock device installed and operational on their vehicles for one year. Also, current law allows first time offenders to avoid license suspension by attending DWI school.

This bill would require license revocation for all DWI offenders for specified time periods and would require ignition interlock devices for all DWI offenders for the same time periods. The bill would substantially increase the number of offenders required to have ignition interlock de-

VICES and would increase the length of time the devices are required for subsequent offenders.

In March, 2004, the Governor created the Task Force on Ignition Interlock Technology and Deployment by Executive Order. The Task Force reviewed information regarding the effectiveness of ignition interlock devices.

The task force reported that there are approximately 20,000 DWI arrests resulting in almost 13,000 convictions annually. About 2,500 ignition interlock devices are installed annually, representing a small percentage of those convicted.

Data on the ignition interlock devices shows that they are effective in reducing DWI recidivism during the time period they are installed on the vehicle. However, there are barriers to the effectiveness of the interlock devices, including the problem that some offenders do not install the devices as ordered or drive vehicles not equipped with the devices.

The Administrative Office of the Courts has raised the concern that the courts lack the personnel to monitor compliance with ignition interlock device requirements. Without adequate monitoring, the effectiveness of interlock requirements is reduced. The Bernalillo County Metropolitan Court echoes these concerns.

The companies that install and maintain the ignition interlock devices provide much of the day-to-day monitoring and thus alleviate some expense to the courts. However, the courts must have personnel and procedures to receive information from these companies. If an offender is found to have violated his/her sentence, the courts have to respond, which would likely require a judicial proceeding to determine the appropriate response. The effectiveness of an expanded ignition interlock device requirement may be reduced because of the lack of court officials to provide adequate monitoring.

## **PERFORMANCE IMPLICATIONS**

Both the Department of Transportation and the Department of Public Safety have performance measures related to reducing alcohol-related accidents, injuries and fatalities. To the extent that stricter license suspension and ignition interlock device requirements reduce recidivism and/or serve as a deterrent, this bill could help the departments improve on their performance measures.

## **FISCAL IMPLICATIONS**

The bill will result in cost increases to the courts because of the additional workload for increased monitoring of offenders and increased number of court proceedings.

There are approximately 13,000 DWI convictions annually. These convictions would result in either a new or extended ignition interlock device requirement. The bill could lead to an increase in judicial proceedings. There may be an increase in the number of non-compliance hearings because of the lengthened ignition interlock device requirements. In addition, because the penalties will increase, violators may be less likely to accept a plea agreement, which would lead to an increase in the number of jury trials. Finally, the provision allowing 4<sup>th</sup> and subsequent offenders to petition for removal of the ignition interlock requirement every 5 years would generate additional court proceedings.

In evaluating the proposed ignition interlock device requirements, the Bernalillo County Metropolitan Court assessed that it would require 5 additional probation officer I positions, 1 probation officer III and 1 judicial specialist for a total salary of \$329.4 thousand. The court estimated that 3,333 new first time offenders in 2004 would have been subject to the ignition interlock device requirements under this bill.

Using the Metro Court's figures as a basis of general costs, the costs associated with fully monitoring the ignition interlock device compliance of 13,000 DWI offenders per year could range from \$500 thousand to \$1.2 million.

The bill does not require that courts hire new personnel. However, the effectiveness of the ignition interlock device requirement will be reduced to the extent that adequate monitoring resources are not in place.

The bill increases the number of fees being paid into the interlock device fund by including minors adjudicated as delinquent for DWI. These fees are paid by the companies who install the devices and are set at 10% of the amount charged to lease, install service and remove each device. The bill also allows the local government division of the Department of Finance and Administration to expend money from the fund to pay for the installation and removal of the devices on minors' vehicles for minors who are indigent. The addition of minors into this section should have a minimal impact on the interlock device fund since it involves relatively few individuals.

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

This committee substitute is similar to the House Judiciary Committee substitute for House Bills 282, 494 and 506. The main differences are that this bill adds minors to the section regarding the ignition interlock fund and expands the time that a license is revoked pursuant to the Implied Consent Act.

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