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FISCAL IMPACT REPORT

ORIGINAL DATE 1/23/07
 SPONSOR HJC LAST UPDATED 2/13/07 HB 125/HJCS
 SHORT TITLE Ignition Interlock Tampering Penalties SB _____
 ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Unknown. See Below			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 Public Defender Department (PDD)

SUMMARY

Synopsis of Bill

The House Judiciary Committee for House Bill 125 amends Section 66-5-503 NMSA 1978 so that applicants for an ignition interlock license will be required to sign an affidavit acknowledging that tampering or interfering with the proper and intended operation of an ignition interlock device may subject the applicant to penalties for driving that was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act

The bill also amends Section 66-5-504 NMSA 1978 so that a person who is issued an ignition interlock license and who knowingly and deliberately tampers or interferes or causes another to tamper or interfere with the proper and intended operation of an ignition interlock device shall be subject to the penalties for driving with a license that was revoked for driving under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act, as provided in Section 66-5-39 NMSA 1978.

The bill has an emergency clause

FISCAL IMPLICATIONS

According to the AOC there are limited resources around the state for monitoring the increasing number of installed ignition interlock devices. The courts, department of corrections, and county DWI programs lack the staff and resources to provide the comprehensive field monitoring necessary for full oversight of court mandated ignition interlock devices. The bill does not address this issue, leaving it unclear who will be responsible for ensuring installed interlocks are neither tampered or interfered with, nor how such staff will be provided and funded.

AOC also notes as penalties become more severe, defendants may invoke their right to trial and their right to trial by jury. More trials and more jury trials will require additional judge time, courtroom staff time, and courtroom availability and jury fees. These additional costs are not capable of quantification.

In addition, there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

The District Attorney from the Second Judicial District provided the following:

- There is no penalty for operating a vehicle with an ignition interlock that has been tampered with by someone else.
- The penalties are only applicable if the vehicle is not equipped with an ignition interlock device at all. It is suggested that the statute would be clearer if the phrase, something like, “which has not been altered and is properly working” is inserted before the underlined language.
 - There is no penalty for tampering with the device if that person is not required to have an ignition interlock device. There is also no penalty for having someone else provide the sample to start and to operate the vehicle.
 - Proving who tampered with an ignition interlock device will be difficult.
 - Without an admission, proof of who tampered with the device is going to be very hard to obtain.
 - Someone charged with tampering with an ignition interlock device might also claim that “proper and intended operation” is vague and ambiguous and they don’t know what “proper and intended” means. Presumably such an argument would not work if the device is disabled entirely.

ADMINISTRATIVE IMPLICATIONS

There may be an administrative impact on the courts as the result of an increase in caseload and the amount of time necessary to dispose of cases.