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FISCAL IMPACT REPORT

SPONSOR HJC **ORIGINAL DATE** 02/09/10
LAST UPDATED _____ **HB** 10/HJCS
SHORT TITLE Prohibit Cell Phones While Driving **SB** _____
ANALYST Varela

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	Indeterminate	Indeterminate	Recurring	Ignition Interlock Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to SB89, SB179, SB226

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)
Attorney Generals Office (AGO)

SUMMARY

Synopsis of Bill

The House Judiciary Committee substitute for HB10 prohibits the use of a mobile communication device by the driver of a motor vehicle but removes the prohibition against the use of such a device by the operator of a train.

The substitute provides exceptions for use of a device by the driver of a vehicle owned by a utility or motor carrier company, use of amateur radio equipment by a federally licensed operator and use of equipment operating on citizens' or family radio bands. The substitute reduces the fine and penalty assessment for unlawful use of a device from \$200 to \$25 dollars.

The substitute creates a new \$2.00 interlock device fee, to be collected by the magistrate and municipal courts for conviction of various offenses, and for each penalty assessment misdemeanor; and provides that the interlock device fee shall be credited to the Interlock Device Fund. The substitute provides that the juvenile adjudication fee shall be credited to the Juvenile Adjudication Fund.

FISCAL IMPLICATIONS

All penalty assessment receipts collected related to this bill will be remitted to the Interlock Device Fund that is administered by the NMDOT - Traffic Safety Bureau. There is no base data available on which to estimate revenue.

SIGNIFICANT ISSUES

TRD reports that the impact of the bill depends upon enforcement, class of driver and severity of code. The violation of this new provision is listed as a penalty assessment misdemeanor, but it is unclear if jail time could be imposed. As currently written, this type of violation could not be used to disqualify a commercial driver's license, unlike SB 89.

Severity of punitive repercussions could result in commercial driver's license holders losing commercial vehicle driving privileges. Furthermore, it will need to be decided if and how many points are assessed and under which statute or code.

ADMINISTRATIVE IMPLICATIONS

TRD reports the following:

Due to the popularity of such devices, this could greatly increase paperwork including tracking and updating, remittance, and storage. Without additional staff, the increased volume would increase the time it takes at all points of contact. This will be issued under a code RK2 that carries 3 points added to a driver license record. With existing laws already in effect, larger numbers of drivers will lose the privilege to drive which in turn increases the overall workload to the department. Revenue processing and MVD clerks may need to receive additional training to make sure it is entered properly and information disseminated to the public is done accurately and consistently.

The addition of a new \$2.00 interlock device penalty assessment misdemeanor fee would require 240 hours of programming and testing by TRD-ITD, which could not be done immediately (emergency clause) but would take six weeks to accomplish.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to SB89, SB179, SB226

TECHNICAL ISSUES

TRD reports the following:

MVD will need a new code for this violation and it will need to make changes to the electronic citation program.

The substitute bill conflicts with SB 179 and SB 226 as both bills amend § 66-8-116.3. It also conflicts with SB 89 as both bills amend § 66-8-116.