

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/01/11
 SPONSOR Miera LAST UPDATED 02/22/11 HB 68/aHJC
 SHORT TITLE Increase Certain Careless Driving Penalties SB _____
 ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	NFI	NFI	NFI	NFI	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 Attorney (AODA)
 Attorney General’s Office (AGO)
 Taxation & Revenue Department (TRD)
 Public Defender Department (PDD)
 Health Policy Commission (HPC)
 New Mexico Corrections Department (NMCD)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment clarifies that the imposition of an increased penalty for careless driving that causes death or great bodily harm is for the death of or great bodily harm to another person (and not the driver).

Synopsis of Original Bill

House Bill 68 proposes to add an increased penalty upon conviction of careless driving that results in death or “serious bodily harm” (defined in the bill to mean an injury that creates a high probability of death, that causes serious disfigurement or that results in permanent loss or impairment of the function of any member or organ of the body). This offense would constitute

a misdemeanor and would carry a term of imprisonment in a county jail for a definite term of less than one year and/or a fine of not more than \$1,000.

FISCAL IMPLICATIONS

The fiscal impact of this new misdemeanor appears to be minimal. AOC suggests that the number of cases may not change, as cases charged under the new misdemeanor would have been previously charged under the existing law, although this bill could possibly lead to more trials. PDD believes that the small increase in caseload that might result from the passage and implementation of this legislation would likely be absorbed in the ordinary course of business. AODA reports no fiscal implications. NMCD reports that generally it does not incarcerate misdemeanants (the incarceration is in county jails), it does not usually supervise those on probation, and parole terms do not attach to misdemeanor sentences.

SIGNIFICANT ISSUES

The existing traffic misdemeanor for careless driving is punishable by a fine of not more than \$300 and/or imprisonment of not more than 90 days. That misdemeanor would continue under this bill, and the more severe penalty of up to one year in county jail would apply to the newly created offense of careless driving resulting in death or great bodily harm.

The definition of careless driving that is already in existing law and that would be applicable to the new offense being proposed in this bill appears to encompass accidents resulting in death or great bodily harm caused by cell phone usage and texting. HPC estimates that at least 28% of all traffic crashes (at least 1.6 million crashes each year) are caused by drivers using cell phones and texting. The NSC estimates that 1.4 million crashes each year are caused by drivers using cell phones and a minimum of 200,000 additional crashes each year are caused by drivers who are texting. (Source: National Safety Council. (January 1, 2010)

Other provisions of the motor vehicle code already provide for differing penalties depending on the certain factors. Section 66-8-101 provides for an increased penalty—a 3 year term of imprisonment—for third degree homicide by vehicle or great bodily harm by vehicle when the driver is under the influence of alcohol or drugs, which sentence is subject to enhancement for prior convictions. Conviction of reckless driving is subject to a fine of not less than \$25.00 nor more than \$100 and/or imprisonment for not less than five but not more than ninety days, which is also subject to enhancement if it is a subsequent offense. NMSA 1978, section 66-8-113.

OTHER SUBSTANTIVE ISSUES

AGO reports that juries frequently are confused by the phrase “and all other attendant circumstances”, which appears in Section 66-8-114(B) (page 1, line 25-page 2, line 1), and suggests it should be modified or revised to provide more clarity.

AMENDMENTS

AGO and DPS believe the new offense of careless driving causing death or great bodily harm should be a fourth degree felony (which would result in eighteen months incarceration in prison.