

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

SPONSOR Rehm **ORIGINAL DATE** 01/31/11 **LAST UPDATED** _____ **HB** 148
SHORT TITLE Firearm Purchase in Contiguous States **SB** _____
ANALYST Graeser

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Public Safety (DPS)

Administrative Office of the Courts (AOC)

New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

House Bill 148 would repeal 30-7-9 NMSA 1978 effective July 1, 2011. The repeal deletes two permissions: residents of states contiguous to New Mexico may purchase firearms in New Mexico and (2) residents of New Mexico may purchase firearms in states contiguous to New Mexico. Repealing a permission would not directly impose criminal penalties on persons who exercised the permission.

FISCAL IMPLICATIONS

No fiscal impact; no operating budget impact.

SIGNIFICANT ISSUES

Significant issues in the bill are summarized and synthesized from the AOC and NMCD comments.

Section 30-7-9 was enacted in 1969, and currently provides as follows:

“Firearms; sale and purchase. Residents of states contiguous to New Mexico may purchase firearms in New Mexico. Residents of New Mexico may purchase firearms in states contiguous to New Mexico.”

It is not clear that the permission granted in this section of law has any real effect. In which case, repealing the section would also have no real effect.

On its face, the bill has two effects: (1) implicitly imposes criminal penalties on residents of New Mexico who purchase firearms in other states and (2) implicitly imposes criminal penalties on New Mexico gun dealers selling to residents of other states. However, repealing a permission does not necessarily impose a criminal penalty for exercising the permission. In the absence of positive imposition of criminal penalties for either case (1) or (2), the bill may have no impact except to remove ambiguity from statute.

The current 30-7-9 NMSA 1978 permits New Mexico residents to purchase firearms in contiguous states, but is silent on the purchase of firearms in non-contiguous states. Because current State law does not require New Mexico residents to obtain permits to buy rifles, shotguns, handguns or pistols, and also has no registration requirement, it could be difficult for law enforcement officers to obtain evidence regarding the purchase location for the firearm. This makes criminal violations difficult to enforce because of a lack of evidence. New residents of the state could inadvertently violate an implicit prohibition on purchasing firearms in contiguous states if they import firearms, previously purchased in another state, into the state. New Mexicans can legally purchase firearms in other states (not just contiguous states) depending on the gun laws in the state where the firearms are purchased.

Similarly, New Mexico would not have jurisdiction over a resident of another state who purchased a firearm in the state in the absence of a clearly stated criminal statute. Thus, the implicit prohibition could only be enforced against a New Mexico gun dealer.

Federal laws on gun sales, particularly handguns, may need to be utilized in prosecuting cases where firearms are used. Under Federal law, licensed gun dealer sales are regulated regarding the age of the persons making the purchase, with sales prohibited to persons under age 18 (rifles and shotguns) or age 21 (handguns). The Federal law does not address where a firearm may be purchased, but allows states to make that determination.

ADMINISTRATIVE IMPLICATIONS

Neither NMCD, DPS or AOC identify any administrative effect of this bill.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Not clear. The current statute may have no real effect, so the repeal of the bill would also have no real effect. Not enacting the bill will leave a confusing section of law in the compiled statutes of New Mexico.

LG/bym