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## FISCAL IMPACT REPORT

ORIGINAL DATE 03/07/13  
 SPONSOR HF1 LAST UPDATED 03/12/13 HB 143/HFIS  
 SHORT TITLE Boating Accident Notification Time SB \_\_\_\_\_  
 ANALYST Geisler

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		.01 Minimal, See Narrative				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Public Safety (DPS)

Administrative Office of the Courts (AOC)

Energy, Minerals and Natural Resources Department (EMNRD)

### SUMMARY

#### Synopsis of Bill

The House Floor substitute for House Bill 143 (HB 143) would amend Section 66-12-12 NMSA 1978 to require an operator of a vessel involved in a collision, accident, or other casualty involving a vessel and resulting in death or injury to a person, disappearance of a person from a vessel, public or private property damage in excess of \$500 or complete loss of a vessel shall, if physically capable, immediately notify the nearest state park office, the sheriff of the county where the incident occurred or the state police of the incident.

The bill provides for a similar notification requirement for a vessel passenger to report an incident if the operator of a vessel is physically incapable of giving notice. The bill also provides for the owner of the vessel to provide notice to the authorities after learning of the incident.

The bill also prohibits a person from knowingly making a false claim or statement when reporting a vessel collision, accident, or casualty.

## **FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary will 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 ENMRD notes that currently, Section 66-12-12 NMSA 1978 provides the operator of a vessel involved in a collision, accident, or other casualty involving a vessel and resulting in death or injury to a person or damage to property in excess of \$100 up to 48 hours to file a full description of the incident with the State Parks Division. The ability to delay filing the description of the incident for up to two days may interfere with prompt investigations and possible destruction, loss or altering of evidence.

HB 143/HFIS allows the State Parks Division or other law enforcement agency to promptly investigate the incident and gather evidence that is admissible at trial. Instead of filing a full description of the incident that is confidential and inadmissible at trial, the operator would now be required to immediately notify the State Parks Division or other law enforcement agency that the incident occurred.

HB 143/HFIS brings the boat accident notification requirements more in line with other states and with the requirements for motor vehicle reporting. The requirement in HB 143 to immediately notify a law enforcement agency of an accident resulting in bodily injury or death or damage in excess of \$500 is similar to the current requirements in Section 66-7-206 for motor vehicle accidents.

The Department of Public Safety (DPS) adds that the most significant issue presented by passage of the proposed legislation is the deletion of the current statutory language prohibiting an accident report from being introduced or admitted in any trial, civil or criminal. In addition, the State of New Mexico requires the reporting of motor vehicle crashes. Waterway safety is a serious public safety issue, just as are traffic safety issues. Regardless of waterway vs. roadway, “crashes”, especially those involving injury or death, should require consistent reporting requirements. Once these reports are obtained, analysis can and should be conducted to identify boating safety issues, public education issues, and enforcement trends to enhance safety on our waterways.

## **ADMINISTRATIVE IMPLICATIONS**

State Parks Division outreach and education efforts will aid the public in learning about new vessel accident reporting requirements. The proposed statutory changes directly benefit boaters and others that are involved in or are affected by accidents involving vessels statewide.

## **OTHER SUBSTANTIVE ISSUES**

The bill requires immediate notification when a collision involving a vessel results in public or private property damage in excess of \$500. The AOC notes that it may be difficult to

immediately ascertain the amount of damage to a vessel or to a dock, for example, particularly when much of a vessel's structure and a dock's structure lies underwater. There would thus be occasions when the amount of property damage would be underestimated and notification might not occur, despite there actually being property damage in excess of \$500. An alternative would be to require "immediate" notification when "apparent" damage is in excess of \$500, or, if the full extent of damage cannot be immediately ascertained, to require notification upon accurate knowledge of the extent of damage in excess of \$500. Also the bill does not specify an injury threshold to trigger the immediate notification requirement.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The 48 hour requirement for operators of vessels to file a full description of incident involving a vessel will not be changed, the information the operator includes in the description will remain confidential and inadmissible at trial, the property damage reporting threshold for vessel accidents will remain at \$100, and there will be no prohibition against making false claims or statements when reporting a vessel accident.

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