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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 2/27/19  
**LAST UPDATED** 3/04/19      **HB** 611/aHTPWC

**SPONSOR** Gallegos, DM/Ruiloba      **SB** \_\_\_\_\_

**SHORT TITLE** Penalty for Driving Without Insurance      **ANALYST** Gaussoin

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
		Indeterminate	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

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

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Data System		\$44.8	Indeterminate	Indeterminate	Recurring	General Fund
Administrative		Indeterminate	Indeterminate	Indeterminate	Recurring	General Fund
<b>Total</b>		See Fiscal Implications				

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB304, HB391, and SB107.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Attorney General (NMAG)  
 Taxation and Revenue Department (TRD)

#### No Responses Received From

Association of Counties  
 Municipal League

## SUMMARY

### Synopsis of HTPWC Amendment

The House Transportation Public Works and Capital Improvements Committee Amendment to House Bill 611 replaces the \$250 fine for the first offense with a fine of \$200, replaces the \$350 fine with one of \$300, and removes the third fine entirely. There is a \$300 fine for the second or each subsequent offense.

### Synopsis of Original Bill

House Bill amends 66-5-205 NMSA 1978 to define set penalties for driving without insurance. The amendment sets the fines at \$250 for a first offense, \$350 for a second offense, and \$500 for a third or subsequent offense.<sup>1</sup>

The effective date is not specified, placing the effective date at 90 days following adjournment, or June 14, 2019.

## FISCAL IMPLICATIONS

The impact of increasing the penalty for driving without insurance is hard to predict: Higher fines could generate additional revenue or improve compliance or both.

AOC reports, while there is minimal cost associated with statewide update, distribution, and documentation of statutory changes, an increase in the number of offenders opting to appear in court rather than accept the penalty assessment could increase caseloads in the court.

## SIGNIFICANT ISSUES

The Insurance Information Institute reports New Mexico has the third highest rate of uninsured motorists national, with approximately 20 percent uninsured. *Business Insider* lists New Mexico's average annual vehicle insurance premium as \$1,371 and ranks the state 31st highest for insurance rates. The current penalty for driving without insurance is the same as the state penalty for any misdemeanor violation of the Motor Vehicle Code: a fine of not more than \$300 or 90 days in jail or both.

TRD reports law enforcement officers rely on information from the Motor Vehicle Department (MVD) information system, Tapestry, to determine whether to penalize a driver for operating a vehicle without insurance. To ensure registered vehicles are insured, MVD compares the information in Tapestry with the information in the state-run Insurance Identification Database (IIDB), which is populated with data on insurance policies, changes to policies, and policy cancellations electronically submitted by insurance companies. In this way, the accuracy of the information available to law enforcement officers is dependent on thorough, timely, and accurate reporting by insurers.

TRD indicates HB611 might increase compliance with the Mandatory Financial Responsibility Act by making the penalties more expensive than the cost of insurance. However, the department points out, insurers face no penalty for slow or inaccurate reports to the IIDB.

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<sup>1</sup> Changed the cost of the fine in HTPWC amendment.

## **PERFORMANCE IMPLICATIONS**

AOC reports the bill could have an impact on the metropolitan and magistrate courts measures “cases disposed as a percent of cases filed” and “percent change in case filings by case type.”

## **ADMINISTRATIVE IMPLICATIONS**

TRD expects complaints to MVD could increase as a result of the bill, particularly if a penalty is issued in error. The department says the bill would also require MVD staff to devote more time to researching a vehicle’s insurance coverage to support refund requests made by drivers or vehicle owners erroneously assessed penalties, develop business rules to track violations to determine first time and subsequent offenses, and update its operating system, Tapestry, to include the fee amounts for this violation type.

TRD reports the estimated time to develop, test, and implement changes to its computer systems is approximately 16 weeks for an estimated soft cost of \$44.8 thousand. The department says it is unlikely it could update the system by bill’s effective date of June 14, 2019, and recommends an implementation date of October 1, 2019.

As noted in Fiscal Implications, AOC also reports a potential increase in administrative responsibilities.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB391 and HB469 also amend 66-5-205 NMSA 1978. SB107 and HB391 would allow drivers to present to law enforcement officers electronic forms of proof of insurance.

## **TECHNICAL ISSUES**

The bill requires that a driver who drives without insurance is guilty of a misdemeanor as provided in 66-8-7 NMSA 1978, but that section of law limits any penalty to no more than \$300. The fines in HB611 for subsequent offenses exceed that limit.

TRD notes the bill does not refer to the jail time permitted under 66-8-7 NMSA 1978. “It is unclear whether the bill is imposing only the fines and excluding the potential jail time as allowed by Section 66-8-7. Clarification of this point is necessary to prevent uneven application of possible sentences throughout the state.

HFG/sb/al