

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 11, 2024

Bill: SJC Sub. for SB-190 **Sponsor:** Senators Daniel A. Ivey-Soto and Craig W. Brandt, and Representatives Dayan Hochman-Vigil, Andrea Reeb, and William "Bill" R. Rehm

Short Title: DWI Act

Description: This substitute bill enacts the DWI Act, which amends and recompiles several sections of the Motor Vehicle Code, as well as adding some new sections, to create a new act focused on DWI. New sections are provided for driving under the influence of intoxicating liquor and aggravated driving under the influence of intoxicating drugs. It amends a section for driving while intoxicated with a minor in the vehicle to include teenagers under 18, and if the driver is a parent of the minor, requires a penalty assessment and participation parenting classes. A new section is also added to require a study coordinated by the Traffic Safety Bureau of the Department of Transportation with the Motor Vehicle Division (MVD) to study insurance levels regarding drivers subject to Interlock Licensing Act. The bill also repeals Sections 66-8-102, 66-8-103, 66-8-104, 66-8-109, and 66-13-1 through 66-13-13 NMSA 1978.

Effective Date: Sections 1 through 59, 62 and 63 are effective July 1, 2025, and 60 and 61 are effective July 1, 2024.

Taxation and Revenue Department Analyst: Htet Gonzales – Motor Vehicle Division

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
--	(\$1,265)	(\$1,265)	(\$1,265)	(\$1,265)	R	MVD Suspense Fund
--	(\$1,042)	(\$1,042)	(\$1,042)	(\$1,042)	R	Local Government Road Fund

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: The current \$102 driver’s license reinstatement fee following a DWI is distributed as follows: \$2 for administrative fee; \$25 reinstatement fee; to the Motor Vehicle Division (MVD) Suspense Fund; and \$75 to the Local Government Road Fund. To estimate revenue loss associated with this bill, MVD calculated the average total fees collected from the last five years.

Policy Issues: The bill separates and re-chapters several statutes found in the criminal penalties vs. administrative requirements related to DWI.

Eliminating all reinstatement fees for driver’s license suspensions and revocations jeopardizes the long-term solvency of the MVD Suspense Fund, which is necessary for MVD’s operations and infrastructure improvements.

Section 52: Allows for Scientific Laboratory Division (SLD) staff to participate in Implied Consent Act (ICA) hearings via interactive video under certain circumstances. MVD may see an improved turnaround times for blood test results arriving from SLD due to the efficiencies this change may create in SLD’s workflows.

Technical Issues: Particularly page 76, lines 9 – 11. The language about the court determining that use of video testimony “does not abrogate the defendant’s rights” is vague and conclusory. It does not set forth the “adequate showing of necessity” standard in *State v. Smith*, 2013-NMCA-081, ¶ 12. This may result in DWI offenders challenging criminal DWI convictions as a violation of their Sixth Amendment right to confront witnesses in criminal cases.

Sections 15 - 16: Creates new material: Driving Under the Influence of Intoxicating Liquor—Aggravated Driving Under the Influence of Intoxicating Liquor—Unlawful Alcohol Concentrations. Comparing this proposed statute to the existing text of Section 66-8-102 NMSA 1978, the primary difference is that it removes any mention of driving while under the influence of intoxicating drugs, and otherwise ends with the existing text found in paragraph D of Section 66-8-102 NMSA 1978. Both drugged driving and the various sentencing requirements and other procedural guidelines for courts found in Section 66-8-102 NMSA 1978 appear elsewhere as their own sections of this bill. There will be an implementation impact from this change, as MVD will have to separate out the violations in Tapestry and use a different code for drugged vs. drunk driving.

Section 17: Creates a separate statute for drugged driving.

Section 27: Changes to the statute number for the violation of DWI with a minor in the vehicle and adds new sentencing requirements and other nuances around what kind of charge if the driver is 13 or younger vs. 14-17, or if the minor is a child of the parent. This will cause a system impact because MVD will need to separate out violations involving each group of minors into different violations in Tapestry. This section mandates that if the minor is a child of the motorist, upon conviction, the motorist must participate in a parenting class. There is no mention of what kind of parenting class, who provides the class, who is responsible for certifying the class, etc.

Other Issues: None

Administrative & Compliance Impact: This bill completely removes all reinstatement fees for license suspensions and revocations. This will require significant changes to Tapestry.

Section 53 - 54: Re-chapters and updates statute numbers within the remaining statutes of the Implied Consent Act. Changes to Tapestry will be required to update the statutes / codes referenced, and changes to DWI citations / Notices of Revocation, and other letters sent to drivers will need to be updated. MVD will be required to purchase new DWI citation booklets to adhere to the proposed changes at a cost of \$3,500.

Section 61: Requires a study, coordinated by the Traffic Safety Bureau, and including MVD, to investigate procedures to be recommended to ensure that drivers subject to the Interlock Licensing Act are insured at levels required by the Mandatory Financial Responsibility Act.

Section 62: Requires a study, coordinated by DOT’s Traffic Safety Bureau, and including MVD, of duplicative forms used in DUI arrests.

Implementation of this bill will have a high impact on Tax & Rev’s Information Technology Division. The estimated time to develop, test and implement the changes is approximately 3,000 hours or 18 months and approximately \$826,500 (\$660,000 contractual resources including gross receipts tax, and staff workload costs of \$166,500).

This bill required the following changes to Tapestry

- Sections 4, 5, 7, 8, 9, 11, 14, 27, 28, 29, 34, 35, 53, 54, 55

- Change to statute numbers
 - Update codes in the system, updating code to citation mappings, decodes
 - Update letters that reference the statutes
 - One-time process to update the statute numbers on all existing impacted activities
- Section 8
 - Removes all \$25 reinstatement fees going forward
 - Adjust driver control configuration to stop adding this fee requirement going forward
 - Update cashiering rules to no longer require reinstatement fees to be paid when paying for another driver related transaction
 - Removes \$75 reinstatement fee for DWI/ICA going forward
 - Adjust driver control configuration to stop adding this fee requirement going forward
 - Update cashiering rules to no longer require reinstatement fees to be paid when paying for another driver related transaction
 - Removes the requirement to pay the fee to be reinstating
 - Automatically waive the reinstatement fees of anyone with a \$25 or \$75 reinstatement fee currently on record. If that is the only remaining reinstatement requirement, they would need to be auto reinstated.
- Section 15 to 25
 - New concept of drugged driving
 - Duplicating the configuration for DWI convictions and subsequent actions
 - Update the DWI cases to support drugged driving and the additional statutes
- Section 26
 - New reinstatement requirements if a minor is in the vehicle and a child of the driver
 - Capture whether a teenage minor was present who was a child of the driver as part of the conviction reporting. This will require changes to the reporting AOC, TRACs, and batch keyed interfaces to accept the new conviction data for this new requirement.
 - This will require testing for the clearance of this new requirement from the AOC, TRACs, and batch keyed interfaces.
 - New parenting class requirement prior to allowing reinstatement
- Sections 45 to 51 - Update letters that reference statutes

Considering the effort, Sections 1 through 59, 62 and 63 the effective due date of 7/1/2025 will not be feasible. A more feasible effective date would be 1/1/2026.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2024	FY2025	FY2026	3 Year Total Cost		
--	\$660	--	\$660	NR	MVD Suspense Fund – Contractual Resources
--	\$167	--	\$167	NR	MVD Suspense Fund – Staff Workload Cost
--	\$3.5	--	\$3.5	NR	MVD Operating Costs

* In thousands of dollars. Parentheses () indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).