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FISCAL IMPACT REPORT

SPONSOR: McSorley DATE TYPED: 3/19/03 HB _____
 SHORT TITLE: Boating While Intoxicated SB 434/aSJC
 ANALYST: Maloy

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative		

SOURCES OF INFORMATION

Responses Received From
 Public Defenders Officer
 Energy, Minerals and Natural Resources
 Department of Public Safety
 Corrections Department
 Department of Health
 Attorney General's Office

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment adds the requirement for State Parks Division of the Energy, Minerals and Natural Resources Department to develop and implement a program to advertise and further educate the boating public about the dangers of boating while under the influence of alcohol or drugs.

Synopsis of Original Bill

Senate Bill 434 proposes to makes boating while intoxicated (at the level of .08), *a first offense*, punishable by a sentence of up to 90 days and a fine of \$500, and if all jail time is suspended, probation period of up to one year.

A second or subsequent conviction for boating while intoxicated carries a sentence of up to 364 days and a fine of \$750, and probation of one year if any jail time is suspended.

Aggravated boating while intoxicated (at the level of .16), a first offense, is punishable with a sentence not less than 48 consecutive hours and \$750 fine.

An aggravated second or subsequent offense carries a sentence of not less than 48 hours in jail and a fine of \$1000 and one year of probation.

Significant Issues.

The Corrections Department's Analysis provides this assessment:

1. It would be likely that persons convicted of boating while intoxicated would be placed on unsupervised probation for a first offense, and it is likely that second and subsequent offenders would be on supervised probation. In which case, the caseload for probation and parole officers in areas with lakes (Elephant Butte, Conchas, Ute, El Vado areas) might be *somewhat* impacted by increased caseloads.
2. Any increase in the Probation caseloads for second or subsequent offenders would probably be offset by increased probation fees paid by offenders.

The Department of Health notes:

3. Alcohol is a major factor in approximately 50 to 70% of all recreational boating fatalities (US Coast Guard). Environmental factors associated with boating, such as wind, sun, noise and motion, can slow reaction time significantly, and this effect is magnified by alcohol consumption (Oregon State Marine Board.) The National DWI bill of October 2000 established a Blood Alcohol Content (BAC) of 0.08 as the criterion for intoxication for both motor vehicles and boating.
4. The New Mexico Motor Vehicle Code, within the Boat Act, only states that it is illegal to operate a boat while intoxicated. It does not define intoxication or provide for such tests as a BAC test or field sobriety text.

FISCAL IMPLICATIONS

SB 434 may have secondary FTE and budget costs for such offices as the courts, the public defender's office, the district attorney's offices, and corrections department (both for incarceration and for probation and parole).

ADMINISTRATIVE IMPLICATIONS

The present FTE levels and budgets at the courts, public defender's office, district attorney's office and corrections department can likely absorb this additional area of regulation and enforcement with relative ease.

POSSIBLE QUESTIONS

What happens when the blood alcohol level falls between being a simple boating while intoxicated and aggravated boating while intoxicated? If someone has a blood alcohol level of 1.5, is

that simply a boating while intoxicated, or an aggravated boating while intoxicated?

Should there be a provision dealing with fatalities caused as a result of boating while intoxicated, rather than simply bodily injury?

SJM/hjw