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FISCAL IMPACT REPORT

ORIGINAL DATE 02/27/13

SPONSOR Gallegos, D.M. LAST UPDATED _____ HB 560

SHORT TITLE No Text Messaging While Driving SB _____

ANALYST Boerner

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$0.0	\$0.0	\$0.0		TRD Operating Funds

(Parenthesis () Indicate Expenditure Decreases)

SB 17 and HB 43 provide for similar restrictions on the use of wireless devices while operating a non-commercial motor vehicle.

Conflicts with HB183 which also amends requirements for knowledge and skills tests.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
 Taxation and Revenue Department (TRD)
 Department of Health (DOH)
 Department of Transportation (DOT), Traffic Safety Division
 Department of Public Safety (DPS)
 Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

House Bill 560 creates a new section of the Motor Vehicle Code (Code) that prohibits reading, viewing, manually typing or manually sending messages on a personal wireless communication device while driving a commercial vehicle with exceptions for summoning emergency assistance, or for authorized law enforcement. A violation of the proposed prohibition is a "primary offense" defined as an offense for which an officer can stop the driver even in the absence of other offenses.

“Driving,” “message,” “personal wireless communications device” and “primary offense” are defined.

The bill also creates a section of the Code imposing monetary penalties and periods of disqualification from driving commercial vehicles. Specifically, the bill would set civil penalties of \$25.00 for the first offense and \$50.00 for the second or subsequent offense occurring within five years (a violation that occurs within 5 years of a previous offense is considered a repeat offense). In addition to these fines, the bill would require the Taxation and Revenue Department (TRD) to disqualify the person from driving a commercial vehicle following the first offense for a period of not less than sixty days, and a period of not less than one hundred twenty days for a second or subsequent offense.

Finally, this bill would amend Section 66-5-60 of the Code to require that the skills test for a commercial license test the applicant’s “knowledge of and ability to handle distracted driving circumstances.”

FISCAL IMPLICATIONS

No major fiscal impacts noted.

SIGNIFICANT ISSUES

A large body of research clearly indicates that driver distraction and texting presents a serious and potentially deadly danger to society. According to the Governors Highway Safety Association, thirty-nine (39) states, D.C., Puerto Rico, Guam and the U.S. Virgin Islands have ban text messaging for all drivers. Texting while driving causes: 1) one million six hundred thousand (1,600,000) accidents per year – National Safety Council; 2) three hundred thirty thousand (330,000) injuries per year – Harvard Center for Risk Analysis Study; and 3) eleven (11) teen deaths everyday – Ins. Institute for Hwy Safety Fatality Facts.

Additionally, the DOT noted that in 2010, the most frequent top contributing factors to fatal heavy truck-involved crashes were driver inattention (20 percent) and driving left of center (14 percent), according to crash report data from New Mexico law enforcement uniform crash reports.

AMENDMENTS

The TRD points out that to be consistent with Federal Motor Carrier Safety Administration (FMCSA) regulations, this bill should be amended to:

- Prohibit messaging by a commercial driver while driving any (not only a commercial) motor vehicle.
- Prohibit the use of a hand-held mobile telephone while driving a commercial motor vehicle.
- On Page 4, line 4, replace “five” with “three” as the number of years within which an additional violation is considered a repeat offense.

Finally, Section 3 on page 4, lines 16-19, requires that, “The skills test for driving a commercial motor vehicle shall test a person's knowledge of and ability to handle distracted driving circumstances.” Commercial driver license and other driver’s license applicants are required to

take separate knowledge (written) and skills (road) tests. It would be more appropriate to require that “The knowledge test for driving a commercial motor vehicle shall test a person's knowledge and awareness of distracted driving circumstances.” It would be difficult, if not impossible, to develop and implement a skills test evaluation of the driver’s “ability to handle distracted driving circumstances.”

CEB/svb