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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 3/2/15  
**LAST UPDATED** 3/11/15     **HB** 530/aHJC

**SPONSOR** Maestas

**SHORT TITLE** Ignition Interlock Licenses & Removal     **SB** \_\_\_\_\_

**ANALYST** Malone

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

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$6.5	\$0.0	\$0.0	\$0.0	Nonrecurring	TRD-ITD Operating

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 30, HB 86, HB 120, HB 131, HB 364, HB 404, and SB 586.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Transportation (NMDOT)  
 Law Offices of the Public Defender (PDD)  
 Department of Health (DOH)  
 Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of HJC Amendment

The House Judiciary Committee amendment removes the brackets and line through “ignition interlock license” on page 3, line 10 in order to ensure that the transfer to DOT for the underage drinking prevention fund continues to be funded. The table above has been updated to reflect this change.

#### Synopsis of Original Bill

House Bill 530 amends Section 66-5-502 NMSA 1978 to allow an ignition interlock license to be issued to a person whose driving privilege is pending revocation or denial. The bill also amends Section 66-5-503 to allow that an ignition interlock device be removed by a licensed service center upon the request of the person who owns or leases the vehicle and to allow an applicant for an ignition interlock license to obtain the “card” (see technical issues below) for one, two, or three years provided the applicant pays the appropriate fees. The ignition interlock

license may be renewed within ninety days prior to its expiration.

Additionally, the bill amends Section 66-5-35 to eliminate the \$45 fee paid for ignition interlock licenses to the Motor Vehicle Division (MVD) for transfer to NMDOT to be used for underage drinking prevention.

## **FISCAL IMPLICATIONS**

The bill removes a \$45 fee transferred to NMDOT for each ignition interlock license. With approximately 10 thousand interlock licenses issued annually, this change could have a potential impact of \$450 thousand each year. Revenue from this fee is allocated for DWI prevention and education programs for elementary and secondary school students.

There is a small impact on the TRD operating budget, estimated at \$6.5 thousand (detail below in administrative implications).

## **SIGNIFICANT ISSUES**

1. NMDOT has oversight of the ignition interlock program and providers. In particular, the New Mexico Administrative Code, 18.20.11 NMAC, has specific regulations regarding the removal of an ignition interlock device by a licensed installer. The regulation requires that an installer remove the device as follows: upon expiration of the term specified in the judgment and sentence; one year from the date of installation if the judgment and sentence does not specify a term; upon lawful order of the court; upon expiration of the limited license. Pursuant to the rule, the interlock service center operator must notify the appropriate authorities, and may petition the sentencing court for authorization to remove an ignition interlock device if the vehicle is sold, stolen, damaged beyond repair, repossessed, permanently moved out of the service center operator's territory, or impounded and not returned to the owner. The service center operator may also remove the device if the sentenced driver becomes disabled, or if the sentenced driver fails or refuses to pay fees for so long a period of time that the device will not function without being serviced. If enacted, HB 530 would likely require that NMDOT amend this rule.
2. Annually, about 10 thousand ignition interlock licenses are issued. DOH reports that requiring the use of ignition interlocks for all people convicted of alcohol-impaired driving is a recommended by the Community Guide for Preventive Services, which is supported by the Centers for Disease Control and Prevention (CDC). In multiple studies, the required use of ignition interlocks resulted in a 67 percent median decrease in re-arrest rates among those convicted of DWI.
3. DPP notes that the bill assists in making it clear that one can apply for an interlock license at any time.
4. HB 530 would allow all offenders, regardless of situation or completion of sentence, to request that the ignition interlock be removed from their car. This could reduce the effectiveness of ignition interlock sentencing.

## **ADMINISTRATIVE IMPLICATIONS**

TRD estimates that implementation of the bill will have a minimal impact on the department and require about 130 hours of work to change the available interlock license lengths and allow licenses to be issued pending revocation or denial in the MVD IT system, “tapestry”. At \$50 per hour, costs associated with the changes would be about \$6.5 thousand.

NMDOT would have the responsibility of amending administrative code to accommodate the changes contained in this legislation.

## **RELATIONSHIP**

Relates to HB 30, HB 86, HB 120, HB 131, HB 364, HB 404, and SB 586.

## **TECHNICAL ISSUES**

HB 530 adds new material that reads: “At the option of the applicant for an ignition interlock license, a card may be issued for a period of one year, two years or three years; provided that the applicant pays the amount required for an ignition interlock license issued for the term requested.” The “card” referred to in this new language is not defined in current statute or in HB 530, and it is not clear if the card is referring to the ignition interlock license or another document.

TRD and DOT observe that the phrase “pending revocation” needs to be defined. MVD will not always know when there is a pending revocation, as in the case of a person who is charged with DWI but not served with any paperwork under the Implied Consent Act. MVD will not have anything in its records to show any pending charge that could result in a revocation.

## **OTHER SUBSTANTIVE ISSUES**

TRD observes that this bill could create some confusion about eligibility to reinstate a license once revocation is imposed. The licensee may reasonably believe that the revocation period started when the interlock license was obtained. However, revocation periods under Section 66-5-29 are based upon the date of conviction, not when the person obtained the interlock license.

## **AMENDMENTS**

Section 66-5-503(C) refers to an “interlock ignition device,” but the proper term is “ignition interlock device.”

NMDOT recommends the following to be considered: Add “unless a court order exists requiring an individual to maintain an ignition interlock device” to the language stated on page 6, lines 4-7, which states “an interlock ignition device shall be removed from a motor vehicle by a licensed service center operator of ignition interlock devices upon the request of the person who owns or leases the motor vehicle.”