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FISCAL IMPACT REPORT

SPONSOR Gonzales ORIGINAL DATE 1/28/19
 LAST UPDATED 2/15/19 HB 78/aHTPWC/aHJC

SHORT TITLE Commercial Motor Vehicle Inspections SB _____

ANALYST Edwards

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)

Department of Public Safety (DPS)

Administrative Office of the Courts (AOC)

Department of Homeland Security and Emergency Management (DHSEM)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee (HJC) amendments to House Bill 78 are primarily minor language changes to Paragraph B of Section 65-5-1. The bill initially proposed removing the words “the provisions of” when describing the acts and codes that may be enforced by an officer in the field. The HJC amendment to the bill removes this deletion, inserts the word “and” when listing the acts and codes that may be enforced and also adds language the end of the paragraph to allow for a stop “upon reasonable suspicion that the vehicle is in, or is being operated in, violation of those acts, the Motor Vehicle Code or the Criminal Code.”

Synopsis of HTPWC Amendment

The House Transportation, Public Works & Capital Improvements Committee amendment to House Bill 78 addresses a concern raised by the NMAG about the use of “or” not “and” on page 2, line 1, which could be interpreted as limiting an officer’s ability to enforce multiple laws per stop.

Synopsis of Bill

House Bill 78 expands the scope of law enforcement duties performed by motor transportation officers by amending Section 65-5-1 NMSA 1978 of the Motor Transportation Act to add the Motor Vehicle Code, 66-1-1 to 66-8-141 NMSA 1978 (1978 as amended through 2016), and the Criminal Code, 30-1-1 et seq NMSA 1978 to the laws that motor transportation officers may enforce. In the current version, an officer of the Department of Public Safety may enforce two acts: (1) the Motor Transportation Act; and (2) the Motor Carrier Act, 65-2A-1 to 65-2A-41 NMSA 1978.

Other minor changes proposed by HB 78 make it easier to read. The deletions proposed eliminate superfluous words, making the statute more concise.

FISCAL IMPLICATIONS

Department of Public Safety analysis states there will be no fiscal impact as a result of the bill, the HTPWC, or the HJC amendments.

Removing the need for probable cause to stop a commercial motor vehicle for inspection purposes helps DPS meet federal goals and performance measures. It also allows DPS to impact the safety of the motoring public. The driver and company of the truck will receive an inspection that, if free of violations, increases their safety rating with the Federal Motor Carrier Safety Administration. This helps them build their reputation and decreases their overhead for insurability.

Currently, the only way to stop a commercial motor vehicle and conduct an inspection is with probable cause (violation of a traffic law). If the officer completes an inspection, even if it is a clean inspection, the driver and company still receive a violation because the officer has to stipulate on the inspection the reason for the stop, decreasing the company's safety rating.

SIGNIFICANT ISSUES

The NMAG explains the HJC amendment inserting “upon reasonable suspicion” and striking “after observing” on page 2, lines 3 and 4, creates a more explicit standard for when an officer may stop a commercial motor carrier vehicle. The use of the words “upon reasonable suspicion” indicates that the Legislature intends the application of the reasonable suspicion doctrine under Fourth Amendment law.

TECHNICAL ISSUES

The NMAG points out:

“The conjunction between the four laws should be ‘and’ not ‘or.’ The implication is that two or more laws cannot be simultaneously enforced.

‘An officer may enforce in the field the Motor Transportation Act, the Motor Carrier Act, the Motor Vehicle Code or [and] the Criminal Code’”