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FISCAL IMPACT REPORT

ORIGINAL DATE 2/06/19
 SPONSOR Rehm LAST UPDATED 2/28/19 HB 362/aHCEDC
 SHORT TITLE Limit Certain Auto Sale Locations SB _____
 ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21	FY22	FY23		
	Potentially negative to neutral, but not significant				Recurring	State Road Fund
	Potentially negative to neutral, but not significant				Recurring	Local Governments
	Potentially negative to neutral, but not significant				Recurring	General Fund (MVEX)
	Potentially positive, but not significant				Recurring	General Fund (Fines)

Parenthesis () indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$0.0	\$0.0	\$0.0	Recurring	TRD operating
		unknown	unknown	unknown	Recurring	District Attorney's operating
		unknown	unknown	unknown	Recurring	District Court operating

Parenthesis () indicate expenditure decreases

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of HCEDC Amendment

The House Commerce and Economic Development Committee amendment to House Bill 362 changes the individuals not subject to the restrictions of the provisions of the bill from “used

motor vehicle dealer” to just “motor vehicle dealer.” This apparently conforms to the original intent of the bill.

Synopsis of Original Bill Provided by NMAG

House Bill 362 amends certain sections of NMSA 66-3-126 relating to casual sales. Section A limiting casual sales to the seller’s residence is deleted and replaced by a provision limiting casual sales to 4 or fewer vehicles per year unless the person is a used motor vehicle dealer. HB 362 adds a new section B requiring that the casual seller, unless a used motor vehicle dealer, must possess the title and the vehicle must be registered in the seller’s name. Section 66-4-2.2 is amended to limit sales and display of a motor vehicle for sale to the dealer’s established place of business, unless the vehicle is in use for another purpose for less than 12 hours.

Section 1 of the bill provides criminal penalties on conviction of violation of the provisions.

The effective date of this bill is July 1, 2019.

SIGNIFICANT ISSUES & FISCAL IMPLICATIONS

The apparent purposes of this bill are two-fold: (1) provide a clear definition and bright line between casual sales of motor vehicles and not-so-casual sales of motor vehicles by unlicensed ~~used-car~~ dealers; (2) further restrict casual sales of motor vehicles by non-licensed ~~used-car~~ dealers, by prohibiting sales at casual locations not the premises of a licensed motor vehicle dealer.

These may be provisions that are difficult, if not impossible to enforce. However, a licensed car dealer could file a complaint with the local police or sheriff’s department regarding a non-licensed dealer who, it would be alleged, had violated either the location provision, the sale of more than four vehicles provision or the failure to possess title and valid registration documents provision. The police or sheriff’s departments would be encouraged, if not required, to investigate such a complaint.

If the provisions of this law were aggressively enforced, there would be two conflicting fiscal implications: (1) fewer vehicles might be sold as non-licensed used-car dealers would gradually be put out of business. This might result in reduced collection of motor vehicle excise taxes and titling and registration fees, affecting the general fund, the state road fund and other 66-6-23 and 66-6-23.1 NMSA 1978 revenue beneficiaries; (2) more vehicles might be sold by licensed used car dealers, as competition from unlicensed dealers pursuant to the provisions of this bill was reduced. To the extent that this would affect supply and demand considerations, prices of used cars might trend upward and result in enhanced collection of motor vehicle excise taxes and titling and registration fees, affecting the general fund, the state road fund and other 66-6-23 and 66-6-23.1 NMSA 1978 revenue beneficiaries. These two effects might about balance, resulting in little or no change to the revenue beneficiaries.

Overall, it likely, however, that police and sheriff’s departments would not aggressively enforce the provision of this bill. Thus, the administrative and revenue consequence of this bill would be small.

PERFORMANCE IMPLICATIONS

Depending on how aggressively police and sheriff's departments enforced the provisions of this bill, it could affect the performance statistics of the law enforcement departments, district attorneys and district courts. The misdemeanor penalty imposed in this bill is not a mail-in penalty assessment misdemeanor, but would be cited into court.

ADMINISTRATIVE IMPLICATIONS

See discussion above.

LG/gb/al