

LFC Requester:	Scott Sanchez
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date January 24, 2024
Bill No: HB 152

Sponsor: Rehm
Short Title: DWI Changes

Agency Name and Code Number: NM Sentencing Commission – 354
Person Writing Keri Thiel
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 152 amends Section 66-8-102 NMSA 1978, regarding driving under the influence of intoxicating liquor or drugs, so that a person cannot drive under the influence of any drug, removing the present language that states the influence shall be “to a degree that renders the person incapable of safely driving a vehicle”. The bill also specifies in Section 66-8-102(O) that ignition interlock device installation is only required upon conviction pursuant to an unlawful alcohol concentration, clarifying that interlock devices are not required when an individual is convicted under Section 66-8-102 due to unlawful drug intoxication.

HB 152 also amends Section 66-8-110 NMSA 1978, concerning blood and breath tests, to provide that a person shall be charged with violating Section 66-8-102 if the blood or breath of that person contains an alcohol, delta-9-tetrahydrocannabinol, delta-9-tetrahydrocannabinol metabolite, controlled substance, or metabolite concentration that is unlawful under the statute.

The bill also amends Section 66-8-111 NMSA 1978, concerning revocation of license to drive, Section 66-8-111.1 NMSA 1978, concerning written notice of revocation, and Section 66-8-112 NMSA 1978, concerning hearings for revocation, to add unlawful delta-9-tetrahydrocannabinol, delta-9-tetrahydrocannabinol metabolite, controlled substance, or metabolite concentrations as grounds for revocation of an individual’s license to drive.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

Removing the present language that the influence of any drug shall be “to a degree that renders the person incapable of safely driving a vehicle” in order for driving under the influence of that drug to be unlawful would leave the remaining statute very broad. It would potentially encompass currently lawful behavior, like driving while on medication that does not interfere with the ability to safely operate a vehicle, or driving with alcohol or drug blood concentrations

that are lawful under the current law. The proposed language that “[i]t is unlawful for a person who is under the influence of any drug to drive a vehicle within this state” is also seemingly contradicted by the concentration levels subsequently set out as unlawful in Section 66-8-102 NMSA 1978, as determining unlawful levels necessarily means that any concentration below the unlawful level would be lawful, despite that the driver may still be under the influence of that substance.

It is difficult to determine what the effect of passing HB 152 would be on the state’s prison population, but it would likely lead to more people being incarcerated by the Corrections Department. The average per day cost to incarcerate someone in the state’s prison system is \$156.45/day; this average includes private and public facilities.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS