

LFC Requester:

NMDOT BILL ANALYSIS
2024 REGULAR SESSION

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

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 X
Correction X Substitute ___
Date 2/4/2024
Bill No. SB 190/SHPACa
Sponsor: Daniel Ivey-Soto, Craig Brandt, Dayan Hochman-Vigil, Andrea Reeb, William "Bill" Rehm
Agency/ Code: NMDOT - 805 - Traffic Safety Division
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Short Title DWI Act
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SECTION II: FISCAL IMPACT

REVENUE (dollars in thousands)

Table with 5 columns: Estimated Revenue (FY25, FY26, FY27), Recurring or Nonrecurring, Fund Affected. Values: (\$780.0), (\$780.0), (\$780.0), Recurring, Local Governments Road Fund.

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to: None identified.

SECTION III: NARRATIVE

BILL SUMMARY

Senate Bill 190 as amended by the Senate Health and Public Affairs Committee (SB 190/SHPACa) enacts the DWI Act, which amends and recompiles several sections of the Motor Vehicle Code, as well as adding many new sections, to create a new act focused on DWI. SB 190/a also expands the traffic safety bureau's ability to expend funds in the interlock device fund.

FISCAL IMPLICATIONS

At section 8, paragraph B(1), SB 190/SHPACa proposes repealing an additional fee of seventy-five dollars (\$75.00) which would be appropriated to the Local Governments Road Fund. This will

result in a reduction of seven hundred eighty thousand dollars (\$780.0) annually.

SB 190/SHPACa deletes the definition of commercial motor vehicle (CMV) found in the New Mexico Commercial Driver's License Act. As addressed below under Technical Issues, CMV is defined by federal regulation both under 49 CFR 390 and under 49 CFR 383. The Federal Motor Carriers Safety Administration (FMCSA) may object to the definition of CMV being removed from the Commercial Driver's License Act for this reason, which could place federal highway funding in jeopardy. Losing federal highway funds would have a significant fiscal impact on the NMDOT.

At section 60, paragraph E, SB 190/a would expand the traffic safety bureau's ability to expend non-reverting fund balances in the interlock device fund on other statutory duties of the bureau. Currently, expenditures from the interlock device fund are limited to covering part of the costs of installing (up to \$50), removing (up to \$50) and leasing (up to \$30 monthly for verified service usage of an ignition interlock device) ignition interlock devices for one vehicle per indigent offender.

SIGNIFICANT ISSUES

None identified.

PERFORMANCE IMPLICATIONS

None identified.

ADMINISTRATIVE IMPLICATIONS

Section 61 of this proposed legislation requires the Traffic Safety Bureau of the Department of Transportation to coordinate, with the motor vehicle division of the Taxation and Revenue Department and other appropriate stakeholders, to investigate and recommend: 1) procedures that ensure drivers subject to the Ignition Interlock Licensing Act are insured at the levels required by the Mandatory Financial Responsibility Act at all times; 2) the steps to be taken if the division is made aware that a driver fails to maintain adequate financial responsibility; and 3) if the insurance obtained by this class of high-risk driver should be required to be associated with the driver rather than with the vehicle as is currently the practice in New Mexico.

Furthermore, Section 62 of this proposed legislation requires the Traffic Safety Bureau of the Department of Transportation to coordinate a study, with the Motor Vehicle Division of the Taxation and Revenue Department and other appropriate stakeholders, to identify duplicative forms used in the detection, apprehension, arrest and prosecution of persons alleged to have driven under the influence of drugs or alcohol in this state and recommend appropriate administrative and legislative changes, if any.

The expanded ability of the traffic safety bureau to expend non-reverting fund balances in the ignition interlock device fund on "other statutory duties of the bureau" will create opportunities for the bureau to fund traffic safety activities that target programming gaps and otherwise unfunded priorities.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None identified.

TECHNICAL ISSUES

SB 190/SHPACa amends Section 66-1-4.3 NMSA 1978 (J) so that the definition of CMV tracks the definition found in 49 CFR 390.5T but eliminates the definition of CMV under Section 66-5-54 NMSA 1978, which is part of the Commercial Driver's License Act, and for which the definition of CMV should be consistent with federal regulation of CDL holders.

Namely, 49 CFR Part 383.5 provides a definition of CMV in the context of the operation of CMVs by commercial driver's license (CDL) holders. Currently, the definition for CMV in Section 66-5-54 significantly tracks the definition provided for in 49 CFR 383.5. The general definition found in SB 190/SHPACa serves as a replacement definition but without being purposefully parallel to 49 CFR 383.5. The definition of "commercial driver's license holder" continues to reference 49 CFR Part 383, but only to those standards for which a CDL holder is authorized to operate a commercial vehicle. Given the relevance for which a defined CMV pertains to the Commercial Driver's License Act, SB 190/SHPACa removes a substantive component of the law pertaining to CDLs, one that better tracks 49 CFR Part 383 and provides clarity to the reader regarding the definition of CMV in relationship to CDL holders. Should the FMCSA find that the definition for CMV in Section 66-1-4.3 fails to reflect relevant federal regulation for CDL holders, the NMDOT may be required to demonstrate compliance with federal regulation.

The Motor Vehicle Division (MVD) of the Taxation and Revenue Department may have more insight regarding the inclusion of a definition of CMV in the Commercial Driver's License Act as the MVD is responsible for the licensure of CMV drivers.

In an informal discussion with a representative of FMCSA, NMDOT has been told that a state must use the definition of CMV found in 49 CFR 383.5 in the state's commercial driver's license statutes governing the issuance of a CDL or commercial learner permits. SB 190/SHPACa eliminates the 49 CFR 383.5 consistent definition of CMV from the Commercial Driver's License Act, possibly leading to New Mexico being out of compliance with FMCSA regulations.

OTHER SUBSTANTIVE ISSUES

None identified.

ALTERNATIVES

None identified.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

No changes will be made to the current Motor Vehicle Code.

AMENDMENTS

None proposed.