

LFC Requester:	Christine Boerner
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**AGENCY BILL ANALYSIS
2013 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{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 X **Amendment**
Correction **Substitute**

Date January 24, 2013
Bill No: HB 164--305

Sponsor: Rep. Eliseo Lee Alcon
Short Clarify Certain Speed Limit
Title: Violations

Reviewing Attorney General's Office
Person Writing Donna Bevacqua-Young
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SECTION II: FISCAL IMPACT **FOR LFC OFFICIAL PURPOSES******
AGO STAFF SHOULD LEAVE SHAGED AREAS BLANK

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s committee’s or legislator’s request.

BILL SUMMARY

Summary Synopsis:

HB 164 proposes to disallow suspension or revocation of a person’s license for travelling above the posted speed limit in areas where the posted speed is 55 mph or 65 mph. The bill also seeks to disallow a moving traffic violation that would result in points on a license in areas where posted speed limit or 55 mph or 65 mph.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL

The speeding violations would be minimized or not penalized in an appropriate fashion. Insurance rates would raise due to more crashes in 55mph and 65 mph posted speed limit zones. Along with insurance rates, hospital bills and other expenses affiliated with those crashes would also increase. More lawsuits in both the civil and criminal arenas, could be filed as well. Upon reviewing the New Mexico Department of Transportation CHDB Traffic Sections analysis (March 5, 2009), there are a great number of roads throughout the State of New Mexico that have posted speed limits of 55mph and 65mph. The majority of those roads are in two heavily populated areas, Bernalillo (over 25 roads) and Las Cruces (over 20 roads) as well as in Lincoln, McKinley and Rio Arriba counties. Disallowing the DMV to suspend or revoke a driver’s license when a person is speeding in a designated 55mph or 65 mph serves no useful purpose in ensuring the safety of those travelling on the highways.

SIGNIFICANT LEGAL ISSUES

Limiting DMV/Tax and Rev department from revoking or suspending someone’s license when the posted speed limit is 55 mph or 65 mph might expose the State to legal liability if: 1) a vehicular homicide or great bodily injury crash occurred, 2) death or serious injury occurred and 3) the offender’s license was not suspended or revoked on the basis of the 55mph or 65 mph statutory change.

Many vehicular homicide/great bodily injury crashes within the State occur with an average impact speed of 55-65mph. Based on the New Mexico Department of Transportation statistics, in 2012 there were 222 non-alcohol related car fatalities based on bad driving behavior.

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL

On the statewide citations, there is already an exception for drivers speeding within two miles of an incorporated town/village/area. If the speeding violation occurs outside the two miles of an incorporated area, then “RH” is checked on the citation and no points are contemplated for that speeding violation. There is an exception for Bernalillo County. Enacting this bill could cause duplication in the law.

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL

Under the New Mexico Administrative Code (hereafter “NMAC”), Section 18.19.5.52, there are references to a point system for various traffic offenses. Currently, the NMAC does not specify speeding violations in any other posted speed limit areas besides 15, 30, and 75 mph. There needs to be a rational basis for why the 55mph and 65 mph posted speed limit zones are targeted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION

N/A

TECHNICAL ISSUES OR DRAFTING ERROR

It is confusing as to why the posted speed limits of 55 mph or 65 mph would be pinpointed. What is the basis behind focusing on those posted speed limits and disallowing speeding or administrative point violations under those circumstances.

OTHER SUBSTANTIVE LEGAL ISSUES

Equal protection arguments could be made with respect to drivers caught speeding in 30 mph zones vs. 55mph. Are the drivers caught speeding in the 55mph somehow being given a break by the State laws? How would that be fair towards other speeders? Class action suits filled with speeders in 30 mph zones could argue discrimination issues as their legal basis.

The roads designated as 55mph or 65 mph have been evaluated by the Department of Transportation. Traffic engineers from the NMDOT have created those speed limits based on several variables: curves in road, upgrades/downgrades, traffic conditions, blind spots, obstructed views, etc. There would need to be an in depth study as to why exceptions should be given to drivers speeding in those referenced 55mph or 65 mph zones.

ALTERNATIVES TO ENACTING THIS BILL

Keep the statutes/law the same

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The laws would stay the same

AMENDMENTS NEEDED TO IMPROVE THIS BILL

Some sort of statistical research or analysis as to why these two posted speed limits are targeted with an explanation how including those specific speed limits in this proposed bill helps ensure the safety of the New Mexico driving community.