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| <b>LFC Requester:</b> | <b>Eric Chenier</b> |
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**AGENCY BILL ANALYSIS  
2015 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)

*and*

[DFA@STATE.NM.US](mailto: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:*

|                   |                                     |                   |                          |                 |                  |
|-------------------|-------------------------------------|-------------------|--------------------------|-----------------|------------------|
| <b>Original</b>   | <input checked="" type="checkbox"/> | <b>Amendment</b>  | <input type="checkbox"/> | <b>Date</b>     | <u>1/29/2015</u> |
| <b>Correction</b> | <input type="checkbox"/>            | <b>Substitute</b> | <input type="checkbox"/> | <b>Bill No:</b> | <u>SB 327</u>    |

|                     |  |                       |   |
|---------------------|--|-----------------------|---|
| <b>Sponsor:</b>     | <u>Sen. Gerald Ortiz y Pino</u>            | <b>Agency Code:</b>   | <u>Attorney General's Office</u>                            |
| <b>Short Title:</b> | <u>Requiring Motorcycle Safety Helmets</u> | <b>Person Writing</b> | <u>Clara M. Moran, AAG</u>                                  |
|                     |  | <b>Phone:</b>         | <u>222-9027</u>   |
|                     |  | <b>Email</b>          | <u><a href="mailto:cmoran@nmag.gov">cmoran@nmag.gov</a></u> |

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

| Appropriation |      | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY15          | FY16 |                           |               |
|               |      |                           |               |
|               |      |                           |               |

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

| Estimated Revenue |      |      | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------|---------------|
| FY15              | FY16 | FY17 |                           |               |
|                   |      |      |                           |               |
|                   |      |      |                           |               |

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

|              | <b>FY15</b> | <b>FY16</b> | <b>FY17</b> | <b>3 Year<br/>Total Cost</b> | <b>Recurring or<br/>Nonrecurring</b> | <b>Fund<br/>Affected</b> |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| <b>Total</b> |             |             |             |                              |                                      |                          |

(Parenthesis ( ) Indicate Expenditure Decreases)

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

**SECTION III: NARRATIVE**

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

**BILL SUMMARY**

Synopsis:

Senate Bill 327 amends 66-7-356 to make mandatory the use of a helmet while operating or riding as a passenger a motorcycle irrespective of the persons age where it currently is only applicable to passengers and operators under eighteen years of age. A person found guilty of violating this provision would be guilty of a penalty assessment misdemeanor, subject to a \$300.00 fine for the first violation and \$600.00 fine for a subsequent violations. The current law does not include a provision where the fine is enhanced based on subsequent violations.

**FISCAL IMPLICATIONS**

N/A

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**

In 1967, the federal government required states to enact universal motorcycle helmet laws to qualify for certain highway safety funds. By 1975, 47 states, including New Mexico, had complied. In 1976, Congress revoked federal authority to assess penalties for noncompliance, and states began to weaken helmet laws to apply only to young or novice riders. New Mexico repealed its universal helmet law in 1977. The current law, N. M. S. A. 1978, § 66-7-356, criminalizes not using a helmet for minors under the age of 18 years old.

Throughout the United States, there are 2 states (Illinois and Iowa) that do not have any form of a mandatory helmet use law. 19 states have a universal motorcycle helmet law (Alabama, California, Georgia, Louisiana, Maryland, Massachusetts, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New York, North Carolina, Oregon, Tennessee, Vermont, Virginia, Washington, W. Virginia), while 27 states have an age component to their motorcycle helmet law. New Mexico falls into this latter category and sits with the majority of states that rely on an age component on 18 years old. Delaware’s law focuses on 19 years or younger, while Arkansas, Kentucky, Michigan, Pennsylvania, Rhode Island, South Carolina, Texas, and Pennsylvania focuses on 21 years or younger. Fines vary throughout the nation, as in Nevada the fine “cannot

be more than \$1,000,” while in Massachusetts the fine “cannot be more than \$35.”

There are few cases in New Mexico relating to this matter. However, the Supreme Court found that a municipal ordinance requiring motorcycle operator to wear approved safety helmet is constitutional as an appropriate exercise of city's police powers. *City of Albuquerque v. Jones*, 1975, 87 N.M. 486, 535 P.2d 1337. Any challenge to the proposed legislation would likely be unsuccessful given the State's broader police powers.

**PERFORMANCE IMPLICATIONS**

N/A

**ADMINISTRATIVE IMPLICATIONS**

N/A

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Companionship with SB 308 Require Motorcycle Helmets

**TECHNICAL ISSUES**

N/A

**OTHER SUBSTANTIVE ISSUES**

**ALTERNATIVES**

N/A

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status Quo

**AMENDMENTS**