
Bill Analysis 2017 Regular Session

SPONSOR: Rep. Antonio Maestas

SHORT TITLE: Revise Certain Criminal Penalties

SYNOPSIS OF BILL: Currently, the default penalty for a traffic misdemeanor is up to 90 days in jail. The Traffic Code also contains some provisions specifically punishable as either a petty misdemeanor (up to six months in jail) or full misdemeanor (up to 364 days). Such charges may also require appearances in court, even to accept responsibility.

HB 428 would remove the possibility of incarceration for a range of Traffic Code infractions, including expired registration, not having one's driver's license in one's "immediate possession," displaying "specialty" license plates without qualification, jaywalking, proper use of sidewalks, and "coasting" on a downhill slope, among others. HB 428 reclassifies these as "special penalty misdemeanors" subject only to a monetary fine. The amount of the fine depends on the nature of the infraction. Meanwhile, HB 428 would remove *failure to pay* a penalty assessment as grounds for suspending one's driver's license.

STRENGTHS: This bill prioritizes courtroom and jail resources to violations of the Criminal Code over extremely minor traffic infractions. Currently, any charge carrying potential jail time qualifies individuals for Public Defender representation, if otherwise eligible. HB 428 thus refocuses the resources of the Judiciary, District Attorneys, and Public Defender to enforcing serious and/or violent crime. Additionally, because many traffic misdemeanors are "officer-prosecuted," giving citizens the option of paying a fine without ever going to court frees up countless law enforcement man-hours to keep our communities safer. Remove failure to pay a penalty assessment as grounds for suspending one's driver's license is critical to avoid unintended consequences for the poor. See Sophie Quinton, *After Ferguson, States Struggle To Crack Down On Court Debt*, Pew Charitable Trusts: Stateline (Aug. 26, 2015) (discussing downstream consequences of fines and fees as applied to the poor), available at <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/08/26/after-ferguson-states-struggle-to-crack-down-on-court-debt>.

HB 428 does not remove jail time from traffic violations directly impacting public safety, such as DWI, injury or homicide by vehicle, leaving the scene of an accident, or careless or reckless driving. See also NMSA 1978, § 66-8-116(B) ("The term 'penalty assessment misdemeanor' does not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person.").

| Safer | Apolitical | Fiscally-Responsible | Evidence Based | Grade |
|--|--|---|--|-----------------|
| <p>The existing “penalty assessment misdemeanor” scheme in the Traffic Code recognizes that monetary consequences are sufficient to deter or correct most traffic infractions.</p> | <p>The bill does not change the status quo in any areas of traffic laws that are typically part of the political discourse, such as DWI, injury or homicide by vehicle, leaving the scene of an accident, or careless or reckless driving.</p> | <p>The Traffic Code contains many regulatory infractions that do not directly implicate public safety, but nevertheless carry the possibility of fairly lengthy incarceration. While decreasing the resource investment of multiple state government agencies, the ease of paying a fine rather than appearing in court could in fact prove a reliable source of income for New Mexico.</p> | <p>Minor penalties that involve “inconvenience and expense, especially when coupled with the increased risk of license suspension under point systems, may have a greater psychological effect on the driver than harsh penalties.”</p> <p>Roger C. Cramton, <i>Driver Behavior and Legal Sanctions: A Study of Deterrence</i>, at 423-33, CORNELL LAW FACULTY PUBLICATIONS, Paper 932 (1969), available at http://scholarship.law.cornell.edu/facpub/932.</p> | <p>A</p> |