

<b>LFC Requester:</b>	<b>Ellen Rabin</b>
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**AGENCY BILL ANALYSIS  
2023 REGULAR SESSION**

**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, 2023  
**Bill No:** HB 158

**Sponsor:** Rep. A. Reeb and Rep. W. Rehm    **Agency Name and Code**    305–Office of the Attorney General  
**Short Title:**    DWI Testing Requirements    **Number:** \_\_\_\_\_  
**Title:** \_\_\_\_\_    **Person Writing**    Lindsay Stuart, AAG  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<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 Opinion nor an Attorney General Advisory Letter. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the Office of the Attorney General.*

### **BILL SUMMARY**

Synopsis: This bill amends NMSA 1978, § 66-8-103, § 66-8-104, § 66-8-111, § 66-13-1, and § 66-13-6, which all relate to chemical testing in regard to driving under the influence of intoxicating liquor or drugs.

NMSA 1978 § 66-8-103 redefines who is qualified to take a chemical blood test. It removes laboratory technician and adds emergency medical technician or certified phlebotomist. It also changes the language from blood-alcohol test to chemical blood test.

NMSA 1978 § 66-8-104 changes the language from blood-alcohol test to chemical blood test. It also removes the words "police, judicial or probation" and "authorized by law" from the heading to read "officer unauthorized to make arrest or direct test except in performance of official duties."

NMSA 1978 § 66-8-111(A) (refusal to submit to chemical tests) removes the following language: thereby causing death or great bodily injury of another person, or there is probable cause to believe that the person has committed a felony while under the influence of alcohol or a controlled substance and that chemical tests as provided in section 66-8-107 NMSA 1978 will produce material evidence in a felony prosecution.

NMSA 1978 § 66-8-111.1(A) (written notice of revocation and right to hearing) is amended to read "a law enforcement officer requesting a chemical test or directing the administration of a chemical test pursuant to sections 66-8-107 and 66-8-111" as opposed to just section 66-8-107.

NMSA 1978 § 66-13-1 changes the language from "sections 1 through 13 of this act" to "Chapter 66, Article 13 NMSA 1978" may be cited as the "Boating While Intoxicated Act."

NMSA 1978 § 66-13-6 changes the language from blood-alcohol to chemical blood tests. It also removes laboratory technician and includes "emergency medical technician or certified phlebotomist" instead. It also includes phlebotomist in the section regarding who cannot be held liable when performing a chemical blood test.

### **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.

None.

### **SIGNIFICANT ISSUES**

None.

### **PERFORMANCE IMPLICATIONS**

**ADMINISTRATIVE IMPLICATIONS**

None

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

**TECHNICAL ISSUES**

N.M. Admin Code 7.33.2.7 defines a test in regard to blood draws, but it also may be helpful to define chemical blood test in the bill.

**OTHER SUBSTANTIVE ISSUES**

None.

**ALTERNATIVES**

N/A

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

Status quo.

**AMENDMENTS**

N/A