

HOUSE HEALTH COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 148

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING AND ENACTING SECTIONS OF  
THE MOTOR VEHICLE CODE TO PROHIBIT SMOKING IN ANY MOTOR VEHICLE  
WHEN A MINOR IS PRESENT; ESTABLISHING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Motor Vehicle Code is  
enacted to read:

"~~NEW MATERIAL~~ SMOKING PROHIBITED--VEHICLE WHERE MINOR  
PRESENT.--

A. It is unlawful for a person to smoke in any  
motor vehicle when a minor is present in the vehicle.

B. As used in this section:

(1) "electronic smoking device" means any  
product containing or delivering nicotine or any other  
substance intended for human consumption that can be used by a

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1 person for smoking through inhalation of vapor or aerosol from  
2 the product. "Electronic smoking device" includes any such  
3 device, whether manufactured, distributed, marketed or sold as  
4 an "e-cigarette", "e-cigar", "e-pipe", "e-hookah" or "vape pen"  
5 or under any other product name or descriptor;

6 (2) "minor" means an individual who is under  
7 eighteen years of age;

8 (3) "motor vehicle" means a self-propelled  
9 device in, upon or by which any person or property is  
10 transported upon land; and

11 (4) "smoking" means:

12 (a) inhaling, exhaling, burning or  
13 carrying any lighted or heated cigar, cigarette or pipe or any  
14 other lighted or heated tobacco or plant product intended for  
15 inhalation, including a hookah or marijuana, whether natural or  
16 synthetic, in any manner or in any form;

17 (b) using an electronic smoking device  
18 that creates an aerosol or vapor, in any manner or form; or

19 (c) using any oral smoking device for  
20 the purpose of circumventing the prohibition of smoking  
21 established pursuant to this 2015 act."

22 SECTION 2. Section 66-8-116 NMSA 1978 (being Laws 1978,  
23 Chapter 35, Section 524, as amended) is amended to read:

24 "66-8-116. PENALTY ASSESSMENT MISDEMEANORS--DEFINITION--  
25 SCHEDULE OF ASSESSMENTS.--

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1           A. As used in the Motor Vehicle Code, "penalty  
 2 assessment misdemeanor" means violation of any of the following  
 3 listed sections of the NMSA 1978 for which, except as provided  
 4 in Subsections D and E of this section, the listed penalty  
 5 assessment is established:

6	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
7	Improper display of		
8	registration plate	66-3-18	\$ 25.00
9	Failure to notify of		
10	change of name or address	66-3-23	25.00
11	Lost or damaged registration,		
12	plate or title	66-3-24	20.00
13	Permitting unauthorized		
14	minor to drive	66-5-40	50.00
15	Permitting unauthorized		
16	person to drive	66-5-41	25.00
17	Failure to obey sign	66-7-104	10.00
18	Failure to obey signal	66-7-105	10.00
19	Speeding	66-7-301	
20	(1) up to and including		
21	ten miles an hour		
22	over the speed limit		15.00
23	(2) from eleven up to		
24	and including fifteen		
25	miles an hour		

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1	over the speed limit		30.00
2	(3) from sixteen up to		
3	and including twenty		
4	miles an hour over the		
5	speed limit		65.00
6	(4) from twenty-one up to		
7	and including twenty-five		
8	miles an hour		
9	over the speed limit		100.00
10	(5) from twenty-six up to		
11	and including thirty		
12	miles an hour over the		
13	speed limit		125.00
14	(6) from thirty-one up to		
15	and including thirty-five		
16	miles an hour over the		
17	speed limit		150.00
18	(7) more than thirty-five		
19	miles an hour over the		
20	speed limit		200.00
21	Unfastened safety belt	66-7-372	25.00
22	Child not in restraint device		
23	or seat belt	66-7-369	25.00
24	Minimum speed	66-7-305	10.00
25	Speeding	66-7-306	15.00

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1	Improper starting	66-7-324	10.00
2	Improper backing	66-7-354	10.00
3	Improper lane	66-7-308	10.00
4	Improper lane	66-7-313	10.00
5	Improper lane	66-7-316	10.00
6	Improper lane	66-7-317	10.00
7	Improper lane	66-7-319	10.00
8	Improper passing	66-7-309 through 66-7-312	10.00
9	Improper passing	66-7-315	10.00
10	Controlled access		
11	violation	66-7-320	10.00
12	Controlled access		
13	violation	66-7-321	10.00
14	Improper turning	66-7-322	10.00
15	Improper turning	66-7-323	10.00
16	Improper turning	66-7-325	10.00
17	Following too closely	66-7-318	10.00
18	Failure to yield	66-7-328 through 66-7-331	10.00
19	Failure to yield	66-7-332	50.00
20	Failure to yield	66-7-332.1	25.00
21	Pedestrian violation	66-7-333	10.00
22	Pedestrian violation	66-7-340	10.00
23	Failure to stop	66-7-342 and 66-7-344	
24		through 66-7-346	10.00
25	Railroad-highway grade		

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1	crossing violation	66-7-341 and 66-7-343	150.00
2	Passing school bus	66-7-347	100.00
3	Failure to signal	66-7-325 through 66-7-327	10.00
4	Failure to secure load	66-7-407	100.00
5	Operation without oversize-		
6	overweight permit	66-7-413	50.00
7	Transport of reducible		
8	load with special		
9	permit more than six miles		
10	from a border crossing	66-7-413	100.00
11	Improper equipment	66-3-801	
12		through 66-3-851	25.00
13	Improper equipment	66-3-901	20.00
14	Improper emergency		
15	signal	66-3-853 through 66-3-857	10.00
16	Minor on motorcycle		
17	without helmet	66-7-356	300.00
18	Operation interference	66-7-357	50.00
19	Littering	66-7-364	300.00
20	Improper parking	66-7-349 through 66-7-352	
21		and 66-7-353	5.00
22	Improper parking	66-3-852	5.00
23	Failure to dim lights	66-3-831	10.00
24	Riding in or towing		
25	occupied house trailer	66-7-366	5.00

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1	Improper opening of doors	66-7-367	5.00
2	No slow-moving vehicle		
3	emblem or flashing		
4	amber light	66-3-887	5.00
5	Open container - first		
6	violation	66-8-138	25.00
7	Texting while driving -	<del>[Section 1 of this</del>	
8	first violation	<del>2014 act]</del> <u>66-7-374</u>	25.00
9	Texting while driving -	<del>[Section 1 of this</del>	
10	subsequent violation	<del>2014 act]</del> <u>66-7-374</u>	50.00
11	<u>Smoking with minor</u>	<u>Section 1 of this</u>	
12	<u>present in vehicle</u>	<u>2015 act</u>	<u>250.00.</u>

13           B. The term "penalty assessment misdemeanor" does  
14 not include a violation that has caused or contributed to the  
15 cause of an accident resulting in injury or death to a person.

16           C. When an alleged violator of a penalty assessment  
17 misdemeanor elects to accept a notice to appear in lieu of a  
18 notice of penalty assessment, a fine imposed upon later  
19 conviction shall not exceed the penalty assessment established  
20 for the particular penalty assessment misdemeanor and probation  
21 imposed upon a suspended or deferred sentence shall not exceed  
22 ninety days.

23           D. The penalty assessment for speeding in violation  
24 of Paragraph (4) of Subsection A of Section 66-7-301 NMSA 1978  
25 is twice the penalty assessment established in Subsection A of

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1 this section for the equivalent miles per hour over the speed  
2 limit.

3 E. Upon a second conviction for operation without a  
4 permit for excessive size or weight pursuant to Section  
5 66-7-413 NMSA 1978, the penalty assessment shall be two hundred  
6 fifty dollars (\$250). Upon a third or subsequent conviction,  
7 the penalty assessment shall be five hundred dollars (\$500).

8 F. Upon a second conviction for transport of a  
9 reducible load with a permit for excessive size or weight  
10 pursuant to Subsection N of Section 66-7-413 NMSA 1978 more  
11 than six miles from a port-of-entry facility on the border with  
12 Mexico, the penalty assessment shall be five hundred dollars  
13 (\$500). Upon a third or subsequent conviction, the penalty  
14 assessment shall be one thousand dollars (\$1,000)."

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