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_____ BILL

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TRAFFIC CITATIONS; PROVIDING FOR REMITTANCE OF
PENALTY ASSESSMENTS TO THE COURTS; REMOVING A CONDITION
ALLOWING THE TAXATION AND REVENUE DEPARTMENT TO PERFORM AN
ADMINISTRATIVE SUSPENSION OF CERTAIN PERMITS OR LICENSES;
ALLOWING A PERSON CHARGED WITH A TRAFFIC CITATION TO PAY THE
PENALTY ASSESSMENT ANY TIME BEFORE APPEARANCE IN COURT;
PROVIDING THAT A UNIFORM TRAFFIC CITATION IS A SUMMONS;
REQUIRING THAT A TRAFFIC CITATION BE SUBMITTED TO THE
APPROPRIATE COURT WITHIN FIVE DAYS OF ISSUANCE; REPEALING
SECTION 66-8-117 NMSA 1978 (BEING LAWS 1978, CHAPTER 35,
SECTION 525, AS AMENDED).

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

SECTION 1. Section 29-5-1.1 NMSA 1978 (being Laws 1981,
Chapter 304, Section 1, as amended) is amended to read:

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1 "29-5-1.1. EDUCATIONAL INSTITUTIONS--CAMPUS TRAFFIC
2 REGULATIONS.--

3 A. The board of regents of each state educational
4 institution designated in Article 12, Section 11 of the
5 constitution of New Mexico that is located within a county
6 having a population in excess of ninety-five thousand according
7 to the most recent federal decennial census may promulgate
8 regulations governing the operation and parking of vehicles on
9 any area within the exterior boundaries of lands under its
10 control [~~which~~] that is not a municipal street or highway,
11 including [~~but not limited to~~]:

- 12 (1) limiting the rates of speed;
- 13 (2) assigning parking spaces, designating
14 parking areas and their uses and collecting rent for them;
- 15 (3) prohibiting parking;
- 16 (4) removing vehicles parked in violation of
17 campus traffic regulations at the expense of the violator who
18 shall pay the expense before the vehicle is released; and
- 19 (5) instituting a system of vehicle
20 registration for the identification and regulation of vehicles
21 regularly using institutional premises, including a reasonable
22 charge to defray costs of providing parking and traffic
23 enforcement services and campus parking.

24 B. Areas subject to campus traffic regulations
25 shall be marked with signs conforming with standards used by

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1 the [~~state highway and~~] department of transportation
2 [~~department~~].

3 C. Regulations of a board of regents promulgated
4 pursuant to this section shall include a specific penalty for
5 each type of violation, which shall not exceed one hundred
6 dollars (\$100). In addition, the board of regents may impose
7 an administrative cost assessment not exceeding five dollars
8 (\$5.00) for each parking citation issued as costs of
9 administration of a campus traffic program.

10 D. Except as provided by Subsection J of this
11 section, unless a warning notice or a parking citation is
12 given, at the time of making an arrest for [~~any~~] a violation of
13 this section, the arresting officer shall offer the alleged
14 violator the option of accepting a penalty assessment or
15 appearing in the metropolitan, municipal or magistrate court
16 within five days after issuance of the citation. The
17 violator's signature on the penalty assessment notice
18 constitutes [~~as~~] an acknowledgment of guilt of the offense
19 stated in the notice.

20 E. Payment of [~~any~~] a parking violation penalty
21 assessment shall be made by mailing the payment within five
22 days from the date the citation was issued to the university
23 police office for processing in the manner prescribed by the
24 board of regents.

25 F. Payment of [~~any~~] a moving violation penalty

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1 assessment shall be made by mailing the payment within thirty
2 days from the date of issuance of the citation to the [~~motor~~
3 ~~vehicle division of the taxation and revenue department, Santa~~
4 ~~Fe~~] magistrate, metropolitan or municipal court whose address
5 appears on the citation. Payments of penalty assessments are
6 timely if postmarked within thirty days from the date of
7 issuance of the citation. When a penalty assessment is paid by
8 currency, a receipt may be immediately mailed to the violator.
9 When a penalty assessment is paid by check, the canceled check
10 is a sufficient receipt.

11 G. No record of [~~any~~] a penalty assessment payment
12 is admissible as evidence in [~~any~~] a court in [~~any~~] a civil
13 action.

14 H. If a penalty assessment is not paid within
15 thirty days from the date of issuance of the citation, the
16 violator shall be prosecuted for the violation charged on the
17 penalty assessment notice in a manner as if a penalty
18 assessment notice had not been issued.

19 I. [~~Any~~] A penalty assessment collected by the
20 [~~motor vehicle division of the taxation and revenue department~~]
21 magistrate, metropolitan or municipal court whose address
22 appears on the citation pursuant to Subsection F of this
23 section shall be remitted to the state treasurer for deposit
24 into the current school fund. [~~Any~~] An administrative cost
25 assessment collected by the [~~division~~] court pursuant to this

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1 section shall be remitted within thirty days to the state
2 educational institution [~~which~~] that issued the citation for
3 administering parking and traffic regulations on that campus.
4 [~~Any~~] A penalty assessment or administrative cost assessment
5 collected by the university police office pursuant to
6 Subsection E of this section shall be retained by the state
7 educational institution as reimbursement for its expenses.

8 J. No penalty assessment citation shall be issued
9 for:

10 (1) speeding in excess of twenty-five miles an
11 hour in excess of the speed limit;

12 (2) operating a vehicle while under the
13 influence of alcohol or drugs; or

14 (3) an offense [~~which~~] that has caused or
15 contributed to the cause of an accident resulting in injury or
16 death to [~~any~~] a person.

17 K. The uniform traffic citation form approved by
18 the director of the motor vehicle division of the taxation and
19 revenue department shall be used as the complaint for
20 violations of regulations promulgated pursuant to the
21 provisions of this section. Citations for moving violations
22 shall be issued in the manner set forth in Sections 66-8-123
23 through 66-8-127 NMSA 1978."

24 **SECTION 2.** Section 66-5-30 NMSA 1978 (being Laws 1978,
25 Chapter 35, Section 252, as amended) is amended to read:

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1 "66-5-30. AUTHORITY OF DIVISION TO SUSPEND OR REVOKE
2 LICENSE.--

3 A. The division may suspend the instruction permit,
4 driver's license or provisional license of a driver without
5 preliminary hearing upon a showing by its records or other
6 sufficient evidence, including information provided to the
7 state pursuant to an intergovernmental agreement authorized by
8 Section 66-5-27.1 NMSA 1978, that the licensee:

9 (1) has been convicted of an offense for which
10 mandatory revocation of license is required upon conviction;

11 (2) has been convicted as a driver in an
12 accident resulting in the death or personal injury of another
13 or serious property damage;

14 (3) has been convicted with such frequency of
15 offenses against traffic laws or rules governing motor vehicles
16 as to indicate a disrespect for traffic laws and a disregard
17 for the safety of other persons on the highways;

18 (4) is an habitually reckless or negligent
19 driver of a motor vehicle;

20 (5) is incompetent to drive a motor vehicle;

21 (6) has permitted an unlawful or fraudulent
22 use of the license;

23 (7) has been convicted of an offense in
24 another state or tribal jurisdiction that if committed within
25 this state's jurisdiction would be grounds for suspension or

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1 revocation of the license;

2 (8) has violated provisions stipulated by a
3 district court in limitation of certain driving privileges; or

4 (9) has accumulated seven points, but less
5 than eleven points, and when the division has received a
6 recommendation from a municipal or magistrate judge that the
7 license be suspended for a period not to exceed three months.

8 B. The division may issue an administrative
9 suspension of the instruction permit, driver's license or
10 provisional license of a driver without preliminary hearing
11 upon a showing by its records or other sufficient evidence,
12 including information provided to the state pursuant to an
13 intergovernmental agreement authorized by Section 66-5-27.1
14 NMSA 1978, that the licensee has failed to:

15 (1) fulfill a signed promise to appear or
16 notice to appear in court as evidenced by notice from a state
17 court or tribal court, whenever appearance is required by law
18 or by the court as a consequence of a charge or conviction
19 under the Motor Vehicle Code or pursuant to the laws of the
20 tribe; or

21 [~~(2) pay a penalty assessment within thirty~~
22 ~~days of the date of issuance by the state or a tribe; or~~

23 ~~(3)] (2) comply with the terms of a citation
24 issued in a foreign jurisdiction that is a party to the
25 Nonresident Violator Compact and that has notified the~~

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1 department of the failure in accordance with the Nonresident
2 Violator Compact.

3 C. If a person whose license was issued by a
4 jurisdiction outside New Mexico that is a party to the
5 Nonresident Violator Compact fails to comply with the terms of
6 a citation issued in New Mexico, the department shall notify
7 that other jurisdiction of the failure and that jurisdiction
8 shall initiate a license suspension action in accordance with
9 the provisions of Article IV of the Nonresident Violator
10 Compact.

11 D. Upon suspending the license of a person as
12 authorized in this section, the division shall immediately
13 notify the licensee in writing of the licensee's right to a
14 hearing before the administrative hearings office and, upon the
15 licensee's request, shall notify the administrative hearings
16 office. The administrative hearings office shall schedule the
17 hearing to take place as early as practicable, but within no
18 more than twenty days, not counting Saturdays, Sundays and
19 legal holidays, after receipt of the request. The hearing
20 shall be held in the county in which the licensee resides
21 unless the hearing officer and the licensee agree that the
22 hearing may be held in some other county; provided that the
23 hearing request is received within twenty days from the date
24 that the suspension was deposited in the United States mail.
25 The hearing officer may, in the hearing officer's discretion,

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1 extend the twenty-day period. The hearing shall be held as
2 provided in the Administrative Hearings Office Act. After the
3 hearing, the hearing officer shall either rescind the order of
4 suspension or continue, modify or extend the suspension of the
5 license or revoke the license."

6 SECTION 3. Section 66-8-119 NMSA 1978 (being Laws 1968,
7 Chapter 62, Section 159, as amended) is amended to read:

8 "66-8-119. PENALTY ASSESSMENT REVENUE--DISPOSITION.--

9 A. The [~~division~~] administrative office of the
10 courts shall remit all penalty assessment receipts, except
11 receipts collected pursuant to Subsections A through [~~F~~] H of
12 Section 66-8-116.3 NMSA 1978, to the state treasurer for credit
13 to the general fund.

14 B. The [~~division~~] administrative office of the
15 courts shall remit all penalty assessment fee receipts
16 collected pursuant to:

17 (1) Subsection A of Section 66-8-116.3 NMSA
18 1978 to the state treasurer for credit to the local government
19 corrections fund;

20 (2) Subsection B of Section 66-8-116.3 NMSA
21 1978 to the state treasurer for credit to the court automation
22 fund;

23 (3) Subsection C of Section 66-8-116.3 NMSA
24 1978 to the state treasurer for credit to the traffic safety
25 education and enforcement fund;

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1 (4) Subsection D of Section 66-8-116.3 NMSA
2 1978 to the state treasurer for credit to the judicial
3 education fund;

4 (5) Subsection E of Section 66-8-116.3 NMSA
5 1978 to the state treasurer for credit to the jury and witness
6 fee fund;

7 (6) Subsection F of Section 66-8-116.3 NMSA
8 1978 to the state treasurer for credit to the juvenile
9 adjudication fund;

10 (7) Subsection G of Section 66-8-116.3 NMSA
11 1978 to the state treasurer for credit to the brain injury
12 services fund; and

13 (8) Subsection H of Section 66-8-116.3 NMSA
14 1978 to the state treasurer for credit to the court facilities
15 fund [~~and~~

16 ~~(9) Subsection I of Section 66-8-116.3 NMSA~~
17 ~~1978 to the state treasurer for credit to the magistrate courts~~
18 ~~operations fund]."~~

19 SECTION 4. Section 66-8-123 NMSA 1978 (being Laws 1978,
20 Chapter 35, Section 531, as amended) is amended to read:

21 "66-8-123. CONDUCT OF ARRESTING OFFICER--NOTICES BY
22 CITATION.--

23 A. Except as provided in Section 66-8-122 NMSA
24 1978, unless a penalty assessment or warning notice is given,
25 whenever a person is arrested for [~~any~~] a violation of the

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1 Motor Vehicle Code or other law relating to motor vehicles
2 punishable as a misdemeanor, the arresting officer, using the
3 uniform traffic citation in paper or electronic form, shall
4 complete the information section and prepare a notice to appear
5 in court, specifying the time and place to appear, have the
6 arrested person sign the agreement to appear as specified, give
7 a copy of the citation to the arrested person and release the
8 person from custody.

9 B. Whenever a person is arrested for violation of a
10 penalty assessment misdemeanor, ~~[and elects to pay the penalty~~
11 ~~assessment, the arresting officer, using the uniform traffic~~
12 ~~citation in paper or electronic form, shall complete the~~
13 ~~information section and prepare the penalty assessment notice~~
14 ~~indicating the amount of the penalty assessment, have the~~
15 ~~arrested person sign the agreement to pay the amount~~
16 ~~prescribed, give a copy of the citation along with a business~~
17 ~~reply envelope addressed to the motor vehicle division in Santa~~
18 ~~Fe to the arrested person and release the person from custody.~~
19 ~~No officer shall accept custody or payment of any penalty~~
20 ~~assessment. If the arrested person declines to accept a~~
21 ~~penalty assessment notice, the officer shall issue a notice to~~
22 ~~appear] the arresting officer shall advise the person of the~~
23 option either to accept the penalty assessment and pay the
24 penalty assessment to the court or to appear in court. The
25 arresting officer, using the uniform traffic citation, shall

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1 complete the information section, prepare the penalty
2 assessment notice indicating the amount of the penalty
3 assessment and prepare a notice to appear in court specifying
4 the time and place to appear in the event that the penalty
5 assessment is not remitted to the court prior to the date of
6 appearance. The arresting officer shall have the person sign
7 the citation as a promise either to pay the penalty assessment
8 as prescribed or to appear in court as specified, give a copy
9 of the citation to the person and release the person from
10 custody. An officer shall not accept custody or payment of a
11 penalty assessment.

12 C. The arresting officer may issue a warning
13 notice, but shall fill in the information section of the
14 uniform traffic citation in paper or electronic form and give a
15 copy to the arrested person after requiring the person's
16 signature on the warning notice as an acknowledgment of
17 receipt. No warning notice issued under this section shall be
18 used as evidence of conviction for purposes of suspension or
19 revocation of license under Section 66-5-30 NMSA 1978.

20 D. In order to secure release, the arrested person
21 must give the person's written promise to appear in court or to
22 pay the penalty assessment prescribed or acknowledge receipt of
23 a warning notice.

24 E. A penalty assessment citation issued by a law
25 enforcement officer shall be submitted to the appropriate

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1 magistrate or metropolitan court within five business days of
2 issuance. If the citation is not submitted within five
3 business days, it may be dismissed with prejudice.

4 ~~[E.—Any]~~ F. An officer violating this section is
5 guilty of a misconduct in office and is subject to removal.

6 ~~[F.]~~ G. A law enforcement officer who arrests a
7 person without a warrant for a misdemeanor violation of the
8 Motor Carrier Act, the Criminal Code, the Liquor Control Act or
9 other New Mexico law may use the uniform traffic citation in
10 paper or electronic form, issued pursuant to procedures
11 outlined in Subsections B through ~~[F]~~ E of Section 31-1-6 NMSA
12 1978, in lieu of taking the person to jail.

13 ~~[G.]~~ H. An electronic traffic citation, prescribed
14 by Section 66-8-128 NMSA 1978, is an electronic version of the
15 uniform traffic citation. For the purposes of this section, an
16 electronic citation may be completed instead of a uniform
17 traffic citation; provided, however, that where this section
18 requires a copy of a citation to be given to an arrested
19 person, a physical copy of the citation shall be provided
20 whether a uniform traffic citation or an electronic form of the
21 uniform traffic citation was used. An electronic form of the
22 uniform traffic citation may be signed electronically."

23 **SECTION 5.** Section 66-8-126 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 534, as amended) is amended to read:

25 "66-8-126. FAILURE TO OBEY NOTICE TO APPEAR--SUMMONS--

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1 WARRANT.--

2 A. It is a penalty assessment misdemeanor for a
3 person to violate [~~that person's~~] a written promise to pay the
4 penalty assessment or to appear in court given to an officer
5 upon issuance of a uniform traffic citation regardless of the
6 disposition of the charge for which the citation was issued.

7 B. A uniform traffic citation with a written
8 promise to appear in court or to pay the penalty assessment is
9 a summons. If a person fails to appear or to pay the penalty
10 assessment by the appearance date, a warrant for failure to
11 appear may be issued.

12 [~~B-~~] C. A written promise to appear in court may be
13 complied with by appearance of counsel."

14 SECTION 6. Section 66-8-128 NMSA 1978 (being Laws 1978,
15 Chapter 35, Section 536, as amended) is amended to read:

16 "66-8-128. UNIFORM TRAFFIC CITATION.--

17 A. The department shall prepare a uniform traffic
18 citation containing at least the following information:

- 19 (1) an information section, serially numbered
20 and containing spaces for the name, email address, telephone
21 number, physical address [~~and~~], mailing address, city and state
22 of the individual charged; the individual's physical
23 description, age and sex; the registration number, year and
24 state of the vehicle involved and its make and type; the state
25 and number of the individual's driver's license; the specific

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1 section number and common name of the offense charged under the
2 NMSA 1978 or local law; the date and time of arrest; the
3 arresting officer's signature and identification number; and
4 the conditions existing at the time of the violation; and

5 (2) a notice to appear [~~and (3)~~] in court or
6 to pay a penalty assessment [~~notice~~] with a place for the
7 signature of the violator agreeing to appear in court or to pay
8 the penalty assessment prescribed.

9 B. The department shall prescribe how the uniform
10 traffic citation form may be used as a warning notice.

11 C. The department shall prescribe the size and
12 number of copies of the paper version of the uniform traffic
13 citation and the disposition of each copy. The department may
14 also prescribe one or more electronic versions of the uniform
15 traffic citation, which may be used in the issuance of
16 citations instead of or with paper uniform traffic citations.

17 D. [~~Any~~] An entity that wishes to submit electronic
18 traffic citations instead of or with paper uniform traffic
19 citations required to be submitted to the department shall
20 secure the prior permission of the department.

21 E. An electronic version of a uniform traffic
22 citation shall include the same information required to be
23 included in a uniform traffic citation. An electronic version
24 of a uniform traffic citation may be signed electronically, and
25 a law enforcement officer may submit or file with a court an

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1 electronic version of a uniform traffic citation if prior
2 permission of the department has been secured. Where the law
3 requires a law enforcement officer to provide a copy of a
4 citation to a person cited or arrested, a physical copy of the
5 citation shall be provided regardless of whether a paper
6 uniform traffic citation or an electronic version of a uniform
7 traffic citation was used."

8 SECTION 7. Section 66-8-131 NMSA 1978 (being Laws 1961,
9 Chapter 213, Section 10, as amended) is amended to read:

10 "66-8-131. UNIFORM TRAFFIC CITATION IS SUMMONS AND
11 COMPLAINT.--The uniform traffic citation used as a notice to
12 appear is a summons and a valid complaint, though not
13 verified."

14 SECTION 8. REPEAL.--Section 66-8-117 NMSA 1978 (being
15 Laws 1978, Chapter 35, Section 525, as amended) is repealed.

16 SECTION 9. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2020.