

HOUSE FLOOR SUBSTITUTE FOR
HOUSE BILL 278

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO MOTOR VEHICLES; AUTHORIZING INTERGOVERNMENTAL
AGREEMENTS FOR EXCHANGE OF MOTOR VEHICLE OFFENSE INFORMATION
BETWEEN TRIBES AND THE STATE.

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

Section 1. Section 66-1-4.6 NMSA 1978 (being Laws 1990,
Chapter 120, Section 7, as amended) is amended to read:

"66-1-4.6. DEFINITIONS.--As used in the Motor Vehicle
Code:

A. "farm tractor" means every motor vehicle
designed and used primarily as a farm implement for drawing
plows, mowing machines and other implements of husbandry;

B. "financial responsibility" means the ability to
respond in damages for liability resulting from traffic
accidents arising out of the ownership, maintenance or use of a

1 motor vehicle of a type subject to registration under the laws
2 of New Mexico, in amounts not less than specified in the
3 Mandatory Financial Responsibility Act or having in effect a
4 motor vehicle insurance policy. "Financial responsibility"
5 includes a motor vehicle insurance policy, a surety bond or
6 evidence of a sufficient cash deposit with the state treasurer;

7 C. "first offender" means a person who for the
8 first time under state or federal law or a municipal ordinance
9 or a tribal law has been adjudicated guilty of the charge of
10 driving a motor vehicle while under the influence of
11 intoxicating liquor or any other drug that renders the person
12 incapable of safely driving a motor vehicle, regardless of
13 whether the person's sentence was suspended or deferred;

14 D. "flammable liquid" means any liquid that has a
15 flash point of seventy degrees fahrenheit or less, as
16 determined by a tagliabue or equivalent closed-cup test device;

17 E. "foreign jurisdiction" means any jurisdiction
18 other than a state of the United States or the District of
19 Columbia;

20 F. "foreign vehicle" means every vehicle of a type
21 required to be registered under the provisions of the Motor
22 Vehicle Code brought into this state from another state,
23 territory or country; and

24 G. "freight trailer" means any trailer, semitrailer
25 or pole trailer drawn by a truck tractor or road tractor, and

1 any trailer, semitrailer or pole trailer drawn by a truck that
 2 has a gross vehicle weight of more than twenty-six thousand
 3 pounds, but "freight trailer" does not include manufactured
 4 homes, trailers of less than one-ton carrying capacity used to
 5 transport animals or fertilizer trailers of less than three
 6 thousand five hundred pounds empty weight. "

7 Section 2. Section 66-1-4.16 NMSA 1978 (being Laws 1990,
 8 Chapter 120, Section 17, as amended) is amended to read:

9 "66-1-4.16. DEFINITIONS. --As used in the Motor Vehicle
 10 Code:

11 A. "safety glazing materials" means glazing
 12 materials so constructed, treated or combined with other
 13 materials as to reduce substantially, in comparison with
 14 ordinary sheet glass or plate glass, the likelihood of injury
 15 to persons by objects from exterior sources or by these safety
 16 glazing materials when they are cracked and broken;

17 B. "safety zone" means the area or space officially
 18 set apart within a highway for the exclusive use of pedestrians
 19 and which is protected or is so marked or indicated by adequate
 20 signs as to be plainly visible at all times while set apart as
 21 a safety zone;

22 C. "school bus" means any motor vehicle operating
 23 under the authority of the state board of education or private
 24 school or parochial school interests that is used to transport
 25 children, students or teachers to and from schools or to and

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1 from any school activity, but not including any vehicle:

2 (1) operated by a common carrier, subject to
3 and meeting all requirements of the [~~state corporation~~] public
4 regulation commission but not used exclusively for the
5 transportation of pupils;

6 (2) operated solely by a government-owned
7 transit authority, if the transit authority meets all safety
8 requirements of the [~~state corporation~~] public regulation
9 commission but is not used exclusively for the transportation
10 of pupils; or

11 (3) operated as a per capita feeder as defined
12 in Section 22-16-6 NMSA 1978;

13 D. "seal" means the official seal of the taxation
14 and revenue department as designated by the secretary;

15 E. "secretary" means the secretary of taxation and
16 revenue, and, except for the purposes of Sections 66-2-3
17 [~~66-2-3.1~~] and 66-2-12 NMSA 1978, also includes the deputy
18 secretary and any division director delegated by the secretary;

19 F. "semitrailer" means any vehicle without motive
20 power, other than a pole trailer, designed for carrying persons
21 or property and for being drawn by a motor vehicle and so
22 constructed that some significant part of its weight and that
23 of its load rests upon or is carried by another vehicle;

24 G. "sidewalk" means that portion of street between
25 the curb lines, or the lateral lines of a roadway, and the

1 adjacent property lines, intended for the use of pedestrians;

2 H. "slow-moving vehicle" means any vehicle that is
 3 ordinarily moved, operated or driven at a speed less than
 4 twenty-five miles per hour;

5 I. "solid tire" means every tire of rubber or other
 6 resilient material that does not depend upon compressed air for
 7 the support of the load;

8 J. "special mobile equipment" means every vehicle
 9 not designed or used primarily for the transportation of
 10 persons or property and incidentally operated or moved over the
 11 highways, including but not limited to farm tractors, road
 12 construction or maintenance machinery, ditch-digging apparatus,
 13 well-boring apparatus and concrete mixers;

14 K. "specially-constructed vehicle" means every
 15 vehicle of a type required to be registered under the Motor
 16 Vehicle Code not originally constructed under a distinctive
 17 name, make, model or type by a generally recognized
 18 manufacturer of vehicles and not materially altered from its
 19 original construction;

20 L. "state" means any state, territory or possession
 21 of the United States, the District of Columbia or any province
 22 of the Dominion of Canada;

23 M "state highway" means any public highway that
 24 has been designated as a state highway by the legislature, the
 25 state ~~[highway]~~ transportation ~~commi~~ssion or the secretary of

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1 highway and transportation;

2 N. "stop", when required, means complete cessation
3 from movement;

4 O. "stop, stopping or standing", when prohibited,
5 means any stopping or standing of a vehicle, whether occupied
6 or not, except when necessary to avoid conflict with other
7 traffic or in compliance with the directions of a police
8 officer or traffic-control sign or signal;

9 P. "street" or "highway" means every way or place
10 generally open to the use of the public as a matter of right
11 for the purpose of vehicular travel, even though it may be
12 temporarily closed or restricted for the purpose of
13 construction, maintenance, repair or reconstruction;

14 Q. "subsequent offender" means a person who was
15 previously a first offender and who again, under state law,
16 federal law or a municipal ordinance or a tribal law, has been
17 adjudicated guilty of the charge of driving a motor vehicle
18 while under the influence of intoxicating liquor or any drug
19 which rendered him incapable of safely driving a motor vehicle,
20 regardless of whether the person's sentence was suspended or
21 deferred; and

22 R. "suspension" means that a person's driver's
23 license and privilege to drive a motor vehicle on the public
24 highways are temporarily withdrawn. "

25 Section 3. Section 66-1-4.17 NMSA 1978 (being Laws 1990,

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1 Chapter 120, Section 18, as amended) is amended to read:

2 "66-1-4.17. DEFINITIONS.--As used in the Motor Vehicle
3 Code:

4 A. "tank vehicle" means a motor vehicle that is
5 designed to transport any liquid or gaseous material within a
6 tank that is either permanently or temporarily attached to the
7 vehicle or the chassis and that has either a gross vehicle
8 weight rating of twenty-six thousand one or more pounds or is
9 used in the transportation of hazardous materials requiring
10 placarding of the vehicle under applicable law;

11 B. "taxicab" means a motor vehicle used for hire in
12 the transportation of persons, having a normal seating capacity
13 of not more than seven persons;

14 C. "through highway" means every highway or portion
15 thereof at the entrance to which vehicular traffic from
16 intersecting highways is required by law to stop before
17 entering or crossing it when stop signs are erected as provided
18 in the Motor Vehicle Code;

19 D. "title service company" means a person, other
20 than the department, an agent of the department, a licensed
21 dealer or the motor transportation division of the department
22 of public safety, who for consideration issues temporary
23 registration plates or prepares and submits to the department
24 on behalf of others applications for registration of or title
25 to motor vehicles;

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1 E. "traffic" means pedestrians, ridden or herded
2 animals, vehicles and other conveyances either singly or
3 together using any highway for purposes of travel;

4 F. "traffic-control signal" means any device,
5 whether manually, electrically or mechanically operated, by
6 which traffic is alternately directed to stop and to proceed;

7 G. "traffic safety bureau" means the traffic safety
8 bureau of the state highway and transportation department;

9 H. "trailer" means any vehicle without motive
10 power, designed for carrying persons or property and for being
11 drawn by a motor vehicle, and so constructed that no
12 significant part of its weight rests upon the towing vehicle;

13 I. "transporter of manufactured homes" means a
14 commercial motor vehicle operation engaged in the business of
15 transporting manufactured homes from the manufacturer's
16 location to the first dealer's location. A "transporter of
17 manufactured homes" may or may not be associated with or
18 affiliated with a particular manufacturer or dealer;

19 J. "travel trailer" means a trailer with a camping
20 body and includes recreational travel trailers and camping
21 trailers;

22 K. "trial court" means the magistrate, municipal or
23 district court that tries the case concerning an alleged
24 violation of a provision of the Motor Vehicle Code;

25 L. "tribal court" means a court created by a tribe

1 or a court of Indian offense created by the United States
2 secretary of the interior;

3 M "tribe" means an Indian nation, tribe or pueblo
4 located wholly or partially in New Mexico;

5 [~~L-~~] N. "truck" means every motor vehicle designed,
6 used or maintained primarily for the transportation of
7 property;

8 [~~M-~~] O. "truck camper" means a camping body
9 designed to be loaded onto, or affixed to, the bed or chassis
10 of a truck. A camping body, when combined with a truck or
11 truck cab and chassis, even though not attached permanently,
12 becomes a part of the motor vehicle, and together they are a
13 recreational unit to be known as a "truck camper"; there are
14 three general types of truck campers:

15 (1) "slide-in camper" means a camping body
16 designed to be loaded onto and unloaded from the bed of a
17 pickup truck;

18 (2) "chassis-mount camper" means a camping
19 body designed to be affixed to a truck cab and chassis; and

20 (3) "pickup cover" or "camper shell" means a
21 camping body designed to provide an all-weather protective
22 enclosure over the bed of a pickup truck and to be affixed
23 thereto; and

24 [~~N-~~] P. "truck tractor" means every motor vehicle
25 designed and used primarily for drawing other vehicles and not

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1 so constructed as to carry a load other than a part of the
2 weight of the vehicle and load so drawn. "

3 Section 4. A new section of the Motor Vehicle Code,
4 Section 66-5-1.2 NMSA 1978, is enacted to read:

5 "66-5-1.2. [NEW MATERIAL] DEFINITION--TRIBE. --As used in
6 Sections 66-5-25, 66-5-26, 66-5-30 and 66-8-102 NMSA 1978,
7 "tribe" means an Indian nation, tribe or pueblo that is located
8 wholly or partially in New Mexico and that has executed an
9 intergovernmental agreement with the state pursuant to Section
10 66-5-27.1 NMSA 1978. "

11 Section 5. Section 66-5-23 NMSA 1978 (being Laws 1978,
12 Chapter 35, Section 245, as amended) is amended to read:

13 "66-5-23. RECORDS TO BE KEPT BY THE DIVISION. --

14 A. The division shall file every application for a
15 driver's license or a commercial driver's license pursuant to
16 the provisions of the New Mexico Commercial Driver's License
17 Act received by it and shall maintain suitable indexes
18 containing:

19 (1) all applications denied and, on each, note
20 the reasons for denial;

21 (2) all applications granted;

22 (3) the name of every licensee whose license
23 has been suspended or revoked by the division and, after each,
24 note the reasons for the action; and

25 (4) the name of every licensee who has

1 violated his written promise to appear in court.

2 B. The division shall also file all abstracts of
 3 court records of conviction or reports that it receives from
 4 the trial courts of this state [~~received by it~~] or from a
 5 tribal court, which show either that a driver is a first
 6 offender or a subsequent offender and whether that offender was
 7 represented by counsel or waived the right to counsel,
 8 [~~received by it under the laws of this state~~] with attention to
 9 Article III of the Driver License Compact, and in connection
 10 therewith maintain convenient records or make suitable
 11 notations in order that the individual record of each licensee
 12 showing the convictions of the licensee in which he has been
 13 involved shall be readily ascertainable and available for the
 14 consideration of the division upon any application for renewal
 15 of license and at other suitable times. "

16 Section 6. Section 66-5-25 NMSA 1978 (being Laws 1978,
 17 Chapter 35, Section 247, as amended) is amended to read:

18 "66-5-25. SUSPENDING PRIVILEGES OF NONRESIDENTS--
 19 REPORTING CONVICTIONS--FAILURES TO APPEAR--FAILURES TO PAY.--

20 A. The privilege of driving a motor vehicle on the
 21 highways of this state given to a nonresident shall be subject
 22 to suspension or revocation by the division in like manner and
 23 for like cause as a driver's license may be suspended or
 24 revoked.

25 B. The division is further authorized, upon

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1 receiving a record of the conviction in this state of a
2 nonresident driver of a motor vehicle of any offense under the
3 motor vehicle laws of this state, or of notice of failure to
4 appear or upon determination by the division of failure to pay
5 a penalty assessment, to forward the record to the motor
6 vehicle administrator in the state wherein the person so
7 convicted is a resident.

8 C. Upon a request by a tribe, the division is
9 authorized to forward to a tribal court or other authority, as
10 specified in an applicable intergovernmental agreement, the
11 record of the conviction in this state of a resident driver of
12 a motor vehicle, who is subject to the jurisdiction of the
13 tribe, of any offense under the Motor Vehicle Code or of notice
14 of failure to appear or upon determination by the division of a
15 failure to pay a penalty assessment. "

16 Section 7. Section 66-5-26 NMSA 1978 (being Laws 1978,
17 Chapter 35, Section 248, as amended) is amended to read:

18 "66-5-26. SUSPENDING RESIDENT'S LICENSE-- CONVICTION
19 FAILURE TO APPEAR, FAILURE TO PAY IN ANOTHER STATE OR TRIBAL
20 JURISDICTION. --

21 A. The division is authorized to suspend or revoke
22 the license of [any] a resident of this state or the privilege
23 of a nonresident to drive a motor vehicle in this state upon
24 receiving notice of the conviction of such person in another
25 state or by a tribe of an offense [~~therein which~~] that if

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1 committed ~~in~~ within the jurisdiction of this state, would be
2 grounds for the suspension or revocation of the license of a
3 driver.

4 B. In addition, the division is authorized to
5 suspend the license of ~~any~~ a resident of this state, or the
6 privilege of a nonresident to drive a motor vehicle in this
7 state, upon receiving notice of failure to appear or pay a
8 penalty assessment imposed by a tribe or imposed in another
9 state ~~which~~ that is a signatory of the Nonresident Violator
10 Compact with New Mexico. "

11 Section 8. A new section of the Motor Vehicle Code,
12 Section 66-5-27.1 NMSA 1978, is enacted to read:

13 "66-5-27.1. [NEW MATERIAL] RECOGNITION OF CONVICTIONS FOR
14 MOTOR VEHICLE OFFENSES COMMITTED ON TRIBAL LAND--
15 INTERGOVERNMENTAL AGREEMENTS-- INFORMATION SHARING WITH TRIBAL
16 COURTS. --

17 A. The department is authorized to enter into an
18 intergovernmental agreement with the appropriate governmental
19 entity of a tribe to permit the exchange of information between
20 the tribal court and the division regarding persons who are
21 adjudicated for a motor vehicle offense that occurred within
22 the jurisdiction of the tribal court.

23 B. The division is authorized to suspend or revoke
24 the driver's license or driving privilege of a person who has
25 been convicted of a motor vehicle offense by a tribal court;

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1 provided that:

2 (1) the department has entered into an
3 intergovernmental agreement with the tribe that permits the
4 exchange of information on motor vehicle offense convictions
5 between the tribal court and the division; and

6 (2) the division has received notice from the
7 tribal court, or other authority as provided in the
8 intergovernmental agreement, that the driver has been convicted
9 of a motor vehicle offense that, if committed within the
10 jurisdiction of the state, would be grounds for suspension or
11 revocation of the driver's license or driving privilege of the
12 offender. "

13 Section 9. Section 66-5-30 NMSA 1978 (being Laws 1978,
14 Chapter 35, Section 252, as amended) is amended to read:

15 "66-5-30. AUTHORITY OF DIVISION TO SUSPEND OR REVOKE
16 LICENSE. --

17 A. The division is authorized to suspend the
18 instruction permit, driver's license or provisional license of
19 a driver without preliminary hearing upon a showing by its
20 records or other sufficient evidence, including information
21 provided to the state pursuant to an intergovernmental
22 agreement authorized by Section 66-5-27.1 NMSA 1978, that the
23 licensee:

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

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1 (2) has been convicted as a driver in ~~[any]~~ an
 2 accident resulting in the death or personal injury of another
 3 or serious property damage;

4 (3) has been convicted with such frequency of
 5 offenses against traffic laws or ~~[regulations]~~ rules governing
 6 motor vehicles as to indicate a disrespect for traffic laws and
 7 a disregard for the safety of other persons on the highways;

8 (4) is an habitually reckless or negligent
 9 driver of a motor vehicle;

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

11 (6) has permitted an unlawful or fraudulent
 12 use of the license;

13 (7) has been convicted of an offense in
 14 another state ~~[which]~~ or tribal jurisdiction that if committed
 15 ~~[in]~~ within this ~~[state]~~ state's jurisdiction would be grounds
 16 for suspension or revocation of the license;

17 (8) has violated provisions stipulated by a
 18 district court in limitation of certain driving privileges;

19 (9) has failed to fulfill a signed promise to
 20 appear or notice to appear in court as evidenced by notice from
 21 a state court or tribal court, whenever appearance is required
 22 by law or by the court as a consequence of ~~[any]~~ a charge or
 23 conviction under the Motor Vehicle Code or pursuant to the laws
 24 of the tribe;

25 (10) has failed to pay a penalty assessment

1 within thirty days of the date of issuance by the state or a
2 tribe; or

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

7 B. Upon suspending the license of [~~any~~] a person as
8 authorized in this section, the division shall immediately
9 notify the licensee in writing and upon his request shall
10 afford him an opportunity for a hearing as early as practicable
11 within not to exceed twenty days, not counting Saturdays,
12 Sundays and legal holidays, after receipt of the request in the
13 county wherein the licensee resides unless the division and the
14 licensee agree that the hearing ~~may~~ be held in some other
15 county; provided that the hearing request is received within
16 twenty days from the date that the suspension was deposited in
17 the United States mail. The director ~~may~~, in his discretion,
18 extend the twenty-day period. Upon the hearing, the director
19 or his duly authorized agent ~~may~~ administer oaths and ~~may~~ issue
20 subpoenas for the attendance of witnesses and the production of
21 relevant books and papers and ~~may~~ require a reexamination of
22 the licensee. Upon the hearing, the division shall either
23 rescind its order of suspension or, good cause appearing
24 therefor, ~~may~~ continue, modify or extend the suspension of the
25 license or revoke the license. "

1 Section 10. Section 66-8-102 NMSA 1978 (being Laws 1953,
2 Chapter 139, Section 54, as amended) is amended to read:

3 "66-8-102. PERSONS UNDER THE INFLUENCE OF INTOXICATING
4 LIQUOR OR DRUGS--AGGRAVATED DRIVING WHILE UNDER THE INFLUENCE
5 OF INTOXICATING LIQUOR OR DRUGS--PENALTY. --

6 A. It is unlawful for a person who is under the
7 influence of intoxicating liquor to drive a vehicle within this
8 state.

9 B. It is unlawful for a person who is under the
10 influence of any drug to a degree that renders him incapable of
11 safely driving a vehicle to drive a vehicle within this state.

12 C. It is unlawful for a person who has an alcohol
13 concentration of eight one hundredths or more in his blood or
14 breath to drive a vehicle within this state.

15 D. Aggravated driving while under the influence of
16 intoxicating liquor or drugs consists of a person who:

17 (1) has an alcohol concentration of sixteen
18 one hundredths or more in his blood or breath while driving a
19 vehicle within this state;

20 (2) has caused bodily injury to a human being
21 as a result of the unlawful operation of a motor vehicle while
22 driving under the influence of intoxicating liquor or drugs; or

23 (3) refused to submit to chemical testing, as
24 provided for in the Implied Consent Act, and in the judgment of
25 the court, based upon evidence of intoxication presented to the

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1 court, was under the influence of intoxicating liquor or drugs.

2 E. ~~Every~~ A person under first conviction pursuant
3 to this section shall be punished, notwithstanding the
4 provisions of Section 31-18-13 NMSA 1978, by imprisonment for
5 not more than ninety days or by a fine of not more than five
6 hundred dollars (\$500), or both; provided that if the sentence
7 is suspended in whole or in part or deferred, the period of
8 probation may extend beyond ninety days but shall not exceed
9 one year. Upon a first conviction pursuant to this section, an
10 offender may be sentenced to not less than forty-eight hours of
11 community service or a fine of three hundred dollars (\$300).

12 The offender shall be ordered by the court to participate in
13 and complete a screening program described in Subsection H of
14 this section and to attend a driver rehabilitation program for
15 alcohol or drugs, also known as a "DWI school", approved by the
16 bureau and also may be required to participate in other
17 rehabilitative services as the court shall determine to be
18 necessary. In addition to those penalties, when an offender
19 commits aggravated driving while under the influence of
20 intoxicating liquor or drugs, the offender shall be sentenced
21 to not less than forty-eight consecutive hours in jail. If an
22 offender fails to complete, within a time specified by the
23 court, any community service, screening program, treatment
24 program or DWI school ordered by the court, the offender shall
25 be sentenced to not less than an additional forty-eight

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1 consecutive hours in jail. Any jail sentence imposed pursuant
 2 to this subsection for failure to complete, within a time
 3 specified by the court, any community service, screening
 4 program, treatment program or DWI school ordered by the court
 5 or for aggravated driving while under the influence of
 6 intoxicating liquor or drugs shall not be suspended, deferred
 7 or taken under advisement. On a first conviction pursuant to
 8 this section, any time spent in jail for the offense prior to
 9 the conviction for that offense shall be credited to any term
 10 of imprisonment fixed by the court. A deferred sentence
 11 pursuant to this subsection shall be considered a first
 12 conviction for the purpose of determining subsequent
 13 convictions.

14 F. A second or third conviction pursuant to this
 15 section shall be punished, notwithstanding the provisions of
 16 Section 31-18-13 NMSA 1978, by imprisonment for not more than
 17 three hundred sixty-four days or by a fine of not more than one
 18 thousand dollars (\$1,000), or both; provided that if the
 19 sentence is suspended in whole or in part, the period of
 20 probation may extend beyond one year but shall not exceed five
 21 years. Notwithstanding any provision of law to the contrary
 22 for suspension or deferment of execution of a sentence:

23
 24 (1) upon a second conviction, [~~each~~] an
 25 offender shall be sentenced to a jail term of not less than

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1 seventy-two consecutive hours, forty-eight hours of community
2 service and a fine of five hundred dollars (\$500). In addition
3 to those penalties, when an offender commits aggravated driving
4 while under the influence of intoxicating liquor or drugs, the
5 offender shall be sentenced to a jail term of not less than
6 ninety-six consecutive hours. If an offender fails to
7 complete, within a time specified by the court, any community
8 service, screening program or treatment program ordered by the
9 court, the offender shall be sentenced to not less than an
10 additional seven consecutive days in jail. A penalty imposed
11 pursuant to this paragraph shall not be suspended or deferred
12 or taken under advisement; and

13 (2) upon a third conviction, an offender shall
14 be sentenced to a jail term of not less than thirty consecutive
15 days and a fine of seven hundred fifty dollars (\$750). In
16 addition to those penalties, when an offender commits
17 aggravated driving while under the influence of intoxicating
18 liquor or drugs, the offender shall be sentenced to a jail term
19 of not less than sixty consecutive days. If an offender fails
20 to complete, within a time specified by the court, any
21 screening program or treatment program ordered by the court,
22 the offender shall be sentenced to not less than an additional
23 sixty consecutive days in jail. A penalty imposed pursuant to
24 this paragraph shall not be suspended or deferred or taken
25 under advisement.

1 G. Upon a fourth or subsequent conviction pursuant
2 to this section, an offender is guilty of a fourth degree
3 felony, as provided in Section 31-18-15 NMSA 1978, and shall be
4 sentenced to a jail term of not less than six months, which
5 shall not be suspended or deferred or taken under advisement.

6 H. Upon any conviction pursuant to this section, an
7 offender shall be required to participate in and complete,
8 within a time specified by the court, an alcohol or drug abuse
9 screening program and, if necessary, a treatment program
10 approved by the court. The requirement imposed pursuant to
11 this subsection shall not be suspended, deferred or taken under
12 advisement.

13 I. Upon a first conviction for aggravated driving
14 while under the influence of intoxicating liquor or drugs
15 pursuant to the provisions of Subsection D of this section, as
16 a condition of probation, an offender shall be required to have
17 an ignition interlock device installed and operating for a
18 period of one year on all motor vehicles driven by the
19 offender, pursuant to rules adopted by the bureau. Unless
20 determined by the sentencing court to be indigent, the offender
21 shall pay all costs associated with having an ignition
22 interlock device installed on the appropriate motor vehicles.
23 If an offender drives a motor vehicle that does not have an
24 ignition interlock device installed on the motor vehicle, the
25 offender may be in violation of the terms and conditions of his

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1 probation.

2 J. Upon a first conviction for driving while under
3 the influence of intoxicating liquor or drugs pursuant to the
4 provisions of Subsection A, B or C of this section, as a
5 condition of probation, an offender may be required to have an
6 ignition interlock device installed and operating for a period
7 of one year on all motor vehicles driven by the offender,
8 pursuant to rules adopted by the bureau. Unless determined by
9 the sentencing court to be indigent, the offender shall pay all
10 costs associated with having an ignition interlock device
11 installed on the appropriate motor vehicles. If an offender
12 drives a motor vehicle that does not have an ignition interlock
13 device installed on the motor vehicle, the offender may be in
14 violation of the terms and conditions of his probation.

15 K. Upon any subsequent conviction pursuant to this
16 section, as a condition of probation, a subsequent offender
17 shall be required to have an ignition interlock device
18 installed and operating for a period of at least one year on
19 all motor vehicles driven by the subsequent offender, pursuant
20 to rules adopted by the bureau. Unless determined by the
21 sentencing court to be indigent, the subsequent offender shall
22 pay all costs associated with having an ignition interlock
23 device installed on the appropriate motor vehicles. If a
24 subsequent offender drives a motor vehicle that does not have
25 an ignition interlock device installed on the motor vehicle,

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1 the subsequent offender may be in violation of the terms and
2 conditions of his probation.

3 L. In the case of a first, second or third offense
4 under this section, the magistrate court has concurrent
5 jurisdiction with district courts to try the offender.

6 M. A conviction pursuant to a municipal or county
7 ordinance in New Mexico or a law of any other jurisdiction,
8 territory or possession of the United States [~~that~~] or of a
9 tribe, where that ordinance or law is equivalent to New Mexico
10 law for driving while under the influence of intoxicating
11 liquor or drugs, and [~~that~~] prescribes penalties for driving
12 while under the influence of intoxicating liquor or drugs,
13 shall be deemed to be a conviction pursuant to this section for
14 purposes of determining whether a conviction is a second or
15 subsequent conviction.

16 N. In addition to any other fine or fee [~~which~~]
17 that may be imposed pursuant to the conviction or other
18 disposition of the offense under this section, the court may
19 order the offender to pay the costs of any court-ordered
20 screening and treatment programs.

21 O. As used in this section:

22 (1) "bodily injury" means an injury to a
23 person that is not likely to cause death or great bodily harm
24 to the person, but does cause painful temporary disfigurement
25 or temporary loss or impairment of the functions of any member

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1 or organ of the person's body; and

2 (2) "conviction" means an adjudication of
3 guilt and does not include imposition of a sentence."

4 Section 11. EFFECTIVE DATE. --The effective date of the
5 provisions of this act is July 1, 2003.

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underscored material = new
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