

Significant Issues

The Senate Judiciary Committee Substitute for Senate Bill 501 includes the addition of new sections and amends various sections of the NMSA 1978.

Section 32A-2-19 NMSA 1978

Allows for a juvenile who is adjudicated delinquent to apply for an ignition interlock license pursuant to the Ignition Interlock Licensing Act.

Section 32A-2-22 NMSA 1978

Allows for a juvenile when a condition of a consent decree is to revoke or deny the juvenile's driving privileges or driver's license to apply for an ignition interlock license pursuant to the Ignition Interlock Licensing Act.

Section 66-5-5 NMSA 1978

Allows for the issuance of a license when a person's license or driving privileges have been suspended, denied, or revoked pursuant to the Ignition Interlock Licensing Act. Allows for a person who within any ten-year period is three times convicted of driving a motor vehicle while under the influence of intoxicating liquor or narcotic drug to apply for an ignition interlock license pursuant to the Ignition Interlock Licensing Act.

Section 66-5-29 NMSA 1978

Allows for an exception to the mandatory revocation provision by allowing individuals to apply for an ignition interlock license pursuant to the Ignition Interlock Licensing Act.

Section 66-5-32 NMSA 1978

Allows an individual to apply for an ignition interlock license when the individual's license or privilege to drive a motor vehicle on the public highways has been revoked pursuant to the Ignition Interlock Licensing Act.

Section 66-5-35 NMSA 1978 (pertaining to limited driving privilege upon suspension or revocation)

Provides that upon suspension or revocation of a person's driver's license following conviction or adjudication as a delinquent under any law, ordinance or rule relating to motor vehicles, a person *shall not* be eligible to apply for

1. a limited commercial driver's license or an ignition interlock license in lieu of a revoked or suspended commercial driver's license;
2. a limited license when the person's driver's license was revoked pursuant to the Implied Consent Act, except as provided in the Ignition Interlock Licensing Act;
3. for a limited license when the person's license was revoked pursuant to Section 66-8-102 NMSA 1978, pertaining to persons under influence of intoxicating liquor or drugs; ag-

gravated driving while under the influence except as provided in the Ignition Interlock Licensing Act;

4. for a limited license when the person's driver's license is denied pursuant to Subsection D of Section 66-5-5 NMSA 1978, pertaining to someone who within any ten-year period, is 3 times convicted of driving a motor vehicle while under the influence of intoxicating liquor or narcotic drug in this state, or under the laws or ordinances of any other state or the District of Columbia, except as provided in the Ignition Interlock Act; or
5. for a limited license when the person's driver's license was revoked pursuant to a conviction for committing homicide by vehicle or great bodily injury by vehicle

Provides that a person whose driver's license is revoked for the *first time* pursuant to the provisions of paragraph (1) or (2) of Subsection C of Section 66-8-111 NMSA 1978, pertaining to a refusal to submit to chemical testing may apply for and receive a limited license, permit or an ignition interlock license if all fees, meets the criteria for limited driving privileges and provides the department with certain documentation.

- Essentially, the bill deletes language pertaining to a subsequent offender obtaining a limited license because in accordance with this bill any person whose instructor's permit, driver's license or provisional license has been revoked or denied can apply for an ignition interlock license thus, alleviating the need to provide a limited license to those subsequent offenders.
- The ignition interlock license does not limit the applicant's driving to work, school, or court ordered treatment as currently a limited license issued under Section 66-5-35 NMSA 1978.
- Currently in order to receive a limited driving license an individual must provide the department proof:
 1. of enrollment in a DWI school approved by the traffic safety bureau and an approved alcohol screening program;
 2. of financial responsibility pursuant to the provisions of the Mandatory Financial Responsibility Act;
 3. of gainful employment or gainful self-employment and that the person needs a license to travel to and from his place of employment; or
 4. of enrollment in school and that the person needs a limited license to travel to and from school; or
 5. of enrollment in a court-ordered treatment program and that the person needs a limited license to travel to and from the treatment program;
 6. that each motor vehicle to be operated by the person is equipped with an ignition interlock device

The applicant must install the device at the applicant's expense. In addition, for each limited license or permit to drive, the applicant is required to pay a fee of forty-five dollars (\$45.00). The limited driving license is limited to the suspension or revocation of a person's license.

- Under the bill to receive an ignition interlock license an applicant shall:
 1. provide proof of installation of the ignition interlock device by a traffic safety bureau

- approved ignition interlock installer;
2. sign an affidavit acknowledging that:
 - a. operation by the applicant of any vehicle not equipped with a device is subject to penalties;
 - b. applicant shall maintain the device and keep up-to date records showing required service and calibrations; and

The applicant must install the device at the applicant's expense. In addition for each ignition interlock license the applicant shall pay a fee of forty-five dollars (\$45.00).

- Research has shown that revocation or suspension of a driver's license does not significantly deter the offender from driving. This bill allows individuals whose license has been revoked, or denied the option of obtaining an ignition interlock license. Allowing the issuance of such license may assure the public that the ignition interlock device is periodically monitoring the blood alcohol level of the operator.
- The Administrative Office of the Courts (AOC) indicates that a significant number of people are arrested for driving on a revoked license and states that this bill could reduce the number of people who are arrested for driving on a revoked license.

FISCAL IMPLICATIONS

The bill does not contain an appropriation. However, fiscal implications may involve the Motor Vehicle Division and the cost of issuing a new type of license. The NMSHTD suggests that the department's Federal Highway construction fund will continue to be sanctioned \$6 million/year in future fiscal years as long as New Mexico does not meet all of the required repeat DWI offender laws. According to the NMSHTD, the Department's Federal Highway construction fund is being sanctioned (by way of a transfer) yearly for not having all of the required repeat DWI offender laws. One of the required laws calls for a minimum one-year license suspension. The state's law must impose a mandatory minimum one-year driver's license suspension or revocation on all repeat intoxicated drivers. Accordingly, during the one-year term, the offender cannot be eligible for any driving privileges, such as a restricted or hardship license. Thus, this bill does not further support New Mexico meeting this requirement.

The AOC indicates that this bill could have a positive impact on the courts if fewer "driving on revoked citations" are issued.

ADMINISTRATIVE IMPLICATIONS

The Motor Vehicle Department will be required to implement the requirements of the bill.

CONFLICT

Senate Bill 501 conflicts with House Bill 249 and Senate Bill 245, amending the same sections 66-5-35 and 66-5-111 and has conflicting intent. House Bill 249 and Senate Bill 245 are specifically eliminating limited licenses for repeat offenders. House Bill 105 and House Bill 429 amend the same section 66-5-5. House Bill 250, Senate Bill 242 and Senate Bill 262 amend the same section 66-8-111.

TECHNICAL ISSUES

The following are suggestions made by the NMSHTD:

1. The bill should add language to state the length of time a device is to remain in an offender's vehicle.
2. The new material added to this bill describes an ignition interlock device, approved by the bureau, that measures the operator's blood alcohol level. The bureau currently approves ignition interlock devices that measure breath alcohol concentration.
3. The bill indicates the ignition interlock license will be clearly marked. The bill should also require the division to place the restriction on the offender's driving record.
4. The bill does not define penalties for failure to keep records and have the device regularly serviced and calibrated by a bureau-approved service center.

FC/njw