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HOUSE BILL 553

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Larry A. Larrañaga

FOR THE WELFARE REFORM OVERSIGHT COMMITTEE

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING FOR SUSPENSION,
REVOCATION AND DENIAL OF DRIVER'S LICENSES FOR HIGH SCHOOL
DROPOUTS UNDER EIGHTEEN YEARS OF AGE.

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

Section 1. Section 66-5-5 NMSA 1978 (being Laws 1978,
Chapter 35, Section 227, as amended) is amended to read:

"66-5-5. PERSONS NOT TO BE LICENSED. - -

A. The division shall not issue a driver's license
under the Motor Vehicle Code to any person [~~A.~~] who is under
the age of eighteen years, except the division may, in its
discretion, issue:

(1) an instruction permit to a person fifteen
years of age or over who is enrolled in and attending or has
completed a driver education course that includes a DWI

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1 education and prevention component approved by the bureau or
2 offered by a public school;

3 (2) a provisional license to [~~any~~] a person
4 fifteen years and six months of age or older:

5 (a) who has completed a driver education
6 course approved by the bureau or offered by a public school
7 that includes a DWI education and prevention component and has
8 had an instruction permit for at least six months; and

9 (b) who has successfully completed a
10 practice driving component;

11 (3) a driver's license to [~~any~~] a person
12 sixteen years and six months of age or older:

13 (a) who has had a provisional license
14 for the twelve-month period immediately preceding the date of
15 the application for the driver's license;

16 (b) who has complied with restrictions
17 on that license;

18 (c) who has not been convicted of a
19 traffic violation that was committed during the ninety days
20 prior to applying for a driver's license; and

21 (d) who has not been adjudicated for an
22 offense involving the use of alcohol or drugs during that
23 period and who has no pending adjudications alleging an offense
24 involving the use of alcohol or drugs at the time of his
25 application; and

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1 (4) to ~~any~~ a person thirteen years of age or
2 older who passes an examination prescribed by the division, a
3 license restricted to the operation of a motorcycle, provided:

4 (a) the motor is not in excess of one
5 hundred cubic centimeters displacement;

6 (b) ~~no~~ a holder of an initial license
7 ~~may~~ shall not carry any other passenger while driving a
8 motorcycle; and

9 (c) the director approves and certifies
10 motorcycles as not in excess of one hundred cubic centimeters
11 displacement and by rule provides for a method of
12 identification of such motorcycles by all law enforcement
13 officers.

14 B. In order to qualify for an instruction permit, a
15 provisional license, a driver's license or a license for the
16 operation of a motorcycle under Subsection A of this section, a
17 person under the age of eighteen years shall:

18 (1) be enrolled in a public, private or home
19 school;

20 (2) have obtained a high school diploma or its
21 equivalent; or

22 (3) make a showing of hardship to the division
23 justifying why the person is not enrolled in a school or has
24 not obtained a high school diploma or its equivalent.

25 C. The division shall not issue a driver's license

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1 under the Motor Vehicle Code to a person:

2 [B-] (1) whose license or driving privilege
3 has been suspended or denied, during the period of suspension
4 or denial, or to any person whose license has been revoked,
5 except as provided in Section 66-5-32 NMSA 1978 and the
6 Ignition Interlock Licensing Act;

7 [C-] (2) who is an habitual drunkard, an
8 habitual user of narcotic drugs or an habitual user of any drug
9 to a degree that renders him incapable of safely driving a
10 motor vehicle;

11 [D-] (3) who, within any ten-year period, is
12 three times convicted of driving a motor vehicle while under
13 the influence of intoxicating liquor or narcotic drug
14 regardless of whether the convictions are under the laws or
15 ordinances of this state or any municipality or county of this
16 state or under the laws or ordinances of any other state, the
17 District of Columbia or any governmental subdivision thereof,
18 except as provided in the Ignition Interlock Licensing Act.
19 Ten years after being so convicted for the third time, the
20 person may apply to any district court of this state for
21 restoration of the license, and the court, upon good cause
22 being shown, may order restoration of the license applied for;
23 provided that the person has not been subsequently convicted of
24 driving a motor vehicle while under the influence of
25 intoxicating liquor or drugs in the ten-year period prior to

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1 his request for restoration of his license. Upon issuance of
2 the order of restoration, a certified copy shall immediately be
3 forwarded to the division, and if the person is otherwise
4 qualified for the license applied for, the three previous
5 convictions shall not prohibit issuance of the license applied
6 for. Should the person be subsequently once convicted of
7 driving a motor vehicle while under the influence of
8 intoxicating liquor or drugs, the division shall revoke his
9 license for five years, after which time he may apply for
10 restoration of his license as provided in this subsection;

11 [E-] (4) who has previously been afflicted
12 with or who is suffering from any mental disability or disease
13 that would render him unable to drive a motor vehicle with
14 safety upon the highways and who has not, at the time of
15 application, been restored to health;

16 [F-] (5) who is required by the Motor Vehicle
17 Code to take an examination, unless he has successfully passed
18 the examination;

19 [G-] (6) who is required under the laws of
20 this state to deposit proof of financial responsibility and who
21 has not deposited the proof;

22 [H-] (7) when the director has good cause to
23 believe that the operation of a motor vehicle on the highways
24 by the person would be inimical to public safety or welfare; or

25 [I-] (8) as a motorcycle driver who is less

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1 than eighteen years of age and who:

2 [~~(1)~~] (a) is not enrolled in a public,
3 private or home school;

4 [~~(2)~~] (b) has not obtained a high school
5 diploma or its equivalent;

6 [~~(3)~~] (c) cannot show hardship to
7 justify why the person is not in school and has not obtained a
8 high school diploma or its equivalent; and

9 [~~(4)~~] (d) has not presented a
10 certificate or other evidence of having successfully completed
11 a motorcycle driver education program licensed or offered in
12 conformance with rules of the bureau. "

13 Section 2. 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 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 rules governing motor vehicles
6 as to indicate a disrespect for traffic laws and a disregard
7 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 or tribal jurisdiction that if committed within
15 this state's jurisdiction would be grounds for suspension or
16 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 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

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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 or

8 (12) is under the age of eighteen and:

9 (a) is not enrolled in a public, private
10 or home school;

11 (b) has not obtained a high school
12 diploma or its equivalent; and

13 (c) cannot show hardship to justify why
14 the person is not in school or has not obtained a high school
15 diploma or its equivalent.

16 B. Upon suspending the license of a person as
17 authorized in this section, the division shall immediately
18 notify the licensee in writing and upon his request shall
19 afford him an opportunity for a hearing as early as practicable
20 within not to exceed twenty days, not counting Saturdays,
21 Sundays and legal holidays, after receipt of the request in the
22 county wherein the licensee resides unless the division and the
23 licensee agree that the hearing may be held in some other
24 county; provided that the hearing request is received within
25 twenty days from the date that the suspension was deposited in

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1 the United States mail. The director may, in his discretion,
2 extend the twenty-day period. Upon the hearing, the director
3 or his duly authorized agent may administer oaths and may issue
4 subpoenas for the attendance of witnesses and the production of
5 relevant books and papers and may require a reexamination of
6 the licensee. Upon the hearing, the division shall either
7 rescind its order of suspension or, good cause appearing
8 therefor, may continue, modify or extend the suspension of the
9 license or revoke the license."