

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILLS 282, 494 & 506

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; REQUIRING ALL OFFENDERS TO OBTAIN AN IGNITION INTERLOCK LICENSE AND HAVE AN IGNITION INTERLOCK DEVICE INSTALLED; PROVIDING FOR INCREASING PERIODS OF LICENSE REVOCATION FOR REPEAT OFFENDERS.

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.--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

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1 years of age or over who is enrolled in and attending or has
2 completed a driver education course that includes a DWI
3 education and prevention component approved by the bureau or
4 offered by a public school;

5 (2) a provisional license to any person
6 fifteen years and six months of age or older:

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

11 (b) who has successfully completed a
12 practice driving component;

13 (3) a driver's license to any person sixteen
14 years and six months of age or older:

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

18 (b) who has complied with restrictions
19 on that license;

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

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

1 involving the use of alcohol or drugs at the time of [~~his~~]
2 application; and

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

6 (a) the [~~motor~~] motorcycle is not in
7 excess of one hundred cubic centimeters displacement;

8 (b) no holder of an initial license may
9 carry any other passenger while driving a motorcycle; and

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

15 B. whose license or driving privilege has been
16 suspended or denied, during the period of suspension or denial,
17 or to any person whose license has been revoked, except as
18 provided in Section 66-5-32 NMSA 1978 and the Ignition
19 Interlock Licensing Act;

20 C. who is an habitual drunkard, an habitual user of
21 narcotic drugs or an habitual user of any drug to a degree that
22 renders [~~him~~] the person incapable of safely driving a motor
23 vehicle;

24 D. who [~~within any ten-year period~~] is [~~three~~] four
25 times convicted of driving a motor vehicle while under the

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1 influence of intoxicating liquor or narcotic drug regardless of
2 whether the convictions are under the laws or ordinances of
3 this state or any municipality or county of this state or under
4 the laws or ordinances of any other state, the District of
5 Columbia or any governmental subdivision thereof, except as
6 provided in the Ignition Interlock Licensing Act. [~~Ten years~~
7 ~~after being so convicted for the third time]~~ Five years from
8 the date of the fourth conviction and every five years
9 thereafter, the person may apply to any district court of this
10 state for restoration of the license, and the court, upon good
11 cause being shown, may order restoration of the license applied
12 for; provided that the person has not been subsequently
13 convicted of driving a motor vehicle while under the influence
14 of intoxicating liquor or drugs [~~in the ten-year period prior~~
15 ~~to his request for restoration of his license]~~. Upon issuance
16 of the order of restoration, a certified copy shall immediately
17 be forwarded to the division, and if the person is otherwise
18 qualified for the license applied for, the [~~three]~~ four
19 previous convictions shall not prohibit issuance of the
20 license; [~~applied for. Should the person be subsequently once~~
21 ~~convicted of driving a motor vehicle while under the influence~~
22 ~~of intoxicating liquor or drugs, the division shall revoke his~~
23 ~~license for five years, after which time he may apply for~~
24 ~~restoration of his license as provided in this subsection]~~

25 E. who has previously been afflicted with or who is

1 suffering from any mental disability or disease that would
2 render him unable to drive a motor vehicle with safety upon the
3 highways and who has not, at the time of application, been
4 restored to health;

5 F. who is required by the Motor Vehicle Code to
6 take an examination, unless [~~he~~] the person has successfully
7 passed the examination;

8 G. who is required under the laws of this state to
9 deposit proof of financial responsibility and who has not
10 deposited the proof;

11 H. when the director has good cause to believe that
12 the operation of a motor vehicle on the highways by the person
13 would be inimical to public safety or welfare; or

14 I. as a motorcycle driver who is less than eighteen
15 years of age and who has not presented a certificate or other
16 evidence of having successfully completed a motorcycle driver
17 education program licensed or offered in conformance with rules
18 of the bureau."

19 Section 2. Section 66-5-29 NMSA 1978 (being Laws 1978,
20 Chapter 35, Section 251, as amended) is amended to read:

21 "66-5-29. MANDATORY REVOCATION OF LICENSE BY DIVISION.--

22 A. The division shall immediately revoke the
23 instruction permit, driver's license or provisional license of
24 a driver upon receiving a record of the driver's adjudication
25 as a delinquent for or conviction of any of the following

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1 offenses, whether the offense is under any state law or local
2 ordinance, when the conviction or adjudication has become
3 final:

4 (1) manslaughter or negligent homicide
5 resulting from the operation of a motor vehicle;

6 (2) any offense rendering a person a "first
7 offender" as defined in the Motor Vehicle Code [~~if that person~~
8 ~~does not attend a driver rehabilitation program pursuant to~~
9 ~~Subsection E of Section 66-8-102 NMSA 1978~~];

10 (3) any offense rendering a person a
11 "subsequent offender" as defined in the Motor Vehicle Code;

12 (4) any felony in the commission of which a
13 motor vehicle is used;

14 (5) failure to stop and render aid as required
15 under the laws of this state in the event of a motor vehicle
16 accident resulting in the death or personal injury of another;

17 (6) perjury or the making of a false affidavit
18 or statement under oath to the division under the Motor Vehicle
19 Code or under any other law relating to the ownership or
20 operation of motor vehicles; or

21 (7) conviction or forfeiture of bail not
22 vacated upon three charges of reckless driving committed within
23 a period of twelve months.

24 B. Except as provided in the Ignition Interlock
25 Licensing Act and in Subsection C, D or E of this section, a

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1 person whose license has been revoked under this section
2 [~~except as provided in Subsection C, D or E of this section~~]
3 shall not be entitled to apply for or receive a new license
4 until [~~the expiration of one year from the date of the last~~
5 ~~application on which the revoked license was surrendered to and~~
6 ~~received by the division, if no appeal is filed, or~~] one year
7 from the date that the [~~revocation~~] conviction is final and [~~he~~
8 ~~has exhausted his~~] all rights to an appeal have been exhausted.

9 C. A person who upon adjudication as a delinquent
10 for driving while under the influence of intoxicating liquor or
11 drugs or conviction pursuant to Section 66-8-102 NMSA 1978 is
12 subject to license revocation under this section for an offense
13 pursuant to which [~~he~~] the person was also subject to license
14 revocation pursuant to Section 66-8-111 NMSA 1978 shall have
15 his license revoked for that offense for a combined period of
16 time equal to:

17 (1) one year for a first offender; or

18 (2) for a subsequent offender:

19 (a) two years for a second conviction;

20 (b) three years for a third conviction;

21 or

22 (c) the remainder of the offender's life

23 for a fourth or subsequent conviction, subject to a five-year
24 review, as provided in Sections 66-5-5 and 66-8-102 NMSA 1978.

25 D. Upon receipt of an order from a court pursuant

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1 to Section 32A-2-19 NMSA 1978 or Subsection G of Section
2 32A-2-22 NMSA 1978, the division shall revoke the driver's
3 license or driving privileges for a period of time in
4 accordance with these provisions.

5 E. Upon receipt from a district court of a record
6 of conviction for the offense of shooting at or from a motor
7 vehicle pursuant to Subsection B of Section 30-3-8 NMSA 1978 or
8 of a conviction for a conspiracy or an attempt to commit that
9 offense, the division shall revoke the driver's [~~licenses~~]
10 license or driving privileges of the convicted person. A
11 person whose license or privilege has been revoked pursuant to
12 the provisions of this subsection shall not be entitled to
13 apply for or receive any new license or privilege until [~~the~~
14 ~~expiration of one year from the date of the last application on~~
15 ~~which the revoked license was surrendered to and received by~~
16 ~~the division, if no appeal is filed, or]~~ one year from the date
17 that the [~~revocation~~] conviction is final and [~~the person has~~
18 ~~exhausted his~~] all rights to an appeal have been exhausted."

19 Section 3. Section 66-5-32 NMSA 1978 (being Laws 1978,
20 Chapter 35, Section 254, as amended) is amended to read:

21 "66-5-32. PERIOD OF SUSPENSION OR REVOCATION.--

22 A. The division shall not suspend a driver's
23 license or privilege to drive a motor vehicle on the public
24 highways for a period of more than one year except as permitted
25 under Subsection C of this section and Sections 66-5-5 and

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1 66-5-39 NMSA 1978.

2 B. Except as provided in the Ignition Interlock
3 Licensing Act, a person whose license or privilege to drive a
4 motor vehicle on the public highways has been revoked shall not
5 be entitled to have the license or privilege renewed or
6 restored unless the revocation was for a cause that has been
7 removed, except that after the expiration of the ~~[period]~~
8 periods specified in ~~[Subsection]~~ Subsections B and C of
9 Section 66-5-29 NMSA 1978 from the date on which the revoked
10 license was surrendered to and received by the division, the
11 person may make application for a new license as provided by
12 law.

13 C. The suspension period for failure to appear or
14 failure to remit the penalty assessment shall, at the
15 discretion of the director, be extended indefinitely subject to
16 the provisions of Subsection B of Section 66-5-30 NMSA 1978."

17 Section 4. Section 66-5-35 NMSA 1978 (being Laws 1978,
18 Chapter 35, Section 257, as amended) is amended to read:

19 "66-5-35. LIMITED DRIVING PRIVILEGE UPON SUSPENSION OR
20 REVOCATION--HEARING--REVIEW.--

21 A. Upon suspension or revocation of a person's
22 driver's license following conviction or adjudication as a
23 delinquent under any law, ordinance or rule relating to motor
24 vehicles, a person may apply to the department for a license or
25 permit to drive, limited to use allowing ~~[him]~~ the person to

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1 engage in gainful employment, to attend school or to attend a
2 court-ordered treatment program, except that the person shall
3 not be eligible to apply:

4 (1) for a limited commercial driver's license
5 or an ignition interlock license in lieu of a revoked or
6 suspended commercial driver's license;

7 (2) for a limited license when the person's
8 driver's license was revoked pursuant to the provisions of the
9 Implied Consent Act, except as provided in [~~Subsection B of~~
10 ~~this section or~~] the Ignition Interlock Licensing Act;

11 (3) for a limited license when the person's
12 driver's license was revoked pursuant to the provisions of
13 Section 66-8-102 NMSA 1978, except as provided in the Ignition
14 Interlock Licensing Act;

15 (4) for a limited license when the person's
16 driver's license is denied pursuant to the provisions of
17 Subsection D of Section 66-5-5 NMSA 1978, except as provided in
18 the Ignition Interlock Licensing Act; or

19 (5) for a limited license when the person's
20 driver's license was revoked pursuant to a conviction for
21 committing homicide by vehicle or great bodily injury by
22 vehicle, as provided in Section 66-8-101 NMSA 1978.

23 [~~B. A person whose driver's license is revoked for~~
24 ~~the first time pursuant to the provisions of Paragraph (1) or~~
25 ~~(2) of Subsection C of Section 66-8-111 NMSA 1978 may apply for~~

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1 ~~and shall receive a limited license, permit or an ignition~~
2 ~~interlock license thirty days after suspension or revocation of~~
3 ~~his license if the person pays every fee, meets the criteria~~
4 ~~for limited driving privileges established in rules by the~~
5 ~~department and provides the department with documentation of~~
6 ~~the following:~~

7 ~~(1) that the person is enrolled in a DWI~~
8 ~~school approved by the traffic safety bureau and an approved~~
9 ~~alcohol screening program; and~~

10 ~~(2) proof of financial responsibility pursuant~~
11 ~~to the provisions of the Mandatory Financial Responsibility~~
12 ~~Act.~~

13 ~~G.]~~ B. Upon receipt of a fully completed
14 application that complies with statutes and rules for a limited
15 license or an ignition interlock license and payment of the fee
16 specified in this subsection, the department shall issue a
17 limited license, ignition interlock license or permit to the
18 applicant showing the limitations specified in the approved
19 application. For each limited license, ignition interlock
20 license or permit to drive, the applicant shall pay to the
21 department a fee of forty-five dollars (\$45.00), which shall be
22 transferred to the [~~state highway and~~] department of
23 transportation [~~department~~]. All money collected under this
24 subsection shall be used for DWI prevention and education
25 programs for elementary and secondary school students. The

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1 [~~state highway and~~] department of transportation [~~department~~]
2 shall coordinate with the department of health to ensure that
3 there is no program duplication. The limited license or permit
4 to drive may be suspended as provided in Section 66-5-30 NMSA
5 1978.

6 [~~D-~~] C. The department, within twenty days of
7 denial of an application for a limited driver's license or
8 permit pursuant to this section, shall afford the applicant a
9 hearing in the county in which the applicant resides, unless
10 the department and the licensee agree that the hearing may be
11 held in some other county. The department may extend the
12 twenty-day period, provided that the extension is in writing
13 and made no later than fifteen days after receipt of an
14 application. Upon hearing, the hearing officer designated by
15 the department may administer oaths and may issue subpoenas for
16 the attendance of witnesses and the production of relevant
17 books and papers. The hearing officer shall make specific
18 findings as to whether the applicant has shown proof of
19 financial responsibility for the future and enrollment in an
20 approved DWI school and an approved alcohol screening program
21 and meets established uniform criteria for limited driving
22 privileges adopted by rule of the department. The hearing
23 officer shall enter an order either approving or denying the
24 applicant's request for a limited license or permit to drive.
25 If any of the specific findings set forth in this subsection

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1 are not found by the hearing officer, the applicant's request
2 for a limited license or permit shall not be approved.

3 ~~[E-]~~ D. A person adversely affected by an order of
4 the hearing officer may seek review within thirty days in the
5 district court in the county in which ~~[he]~~ the person resides.
6 On review, it is for the court to determine only whether the
7 applicant met the requirements in this section for issuance of
8 a limited license or permit to drive."

9 Section 5. Section 66-8-102 NMSA 1978 (being Laws 1953,
10 Chapter 139, Section 54, as amended) is amended to read:

11 "66-8-102. PERSONS UNDER THE INFLUENCE OF INTOXICATING
12 LIQUOR OR DRUGS--AGGRAVATED DRIVING WHILE UNDER THE INFLUENCE
13 OF INTOXICATING LIQUOR OR DRUGS--PENALTY.--

14 A. It is unlawful for a person who is under the
15 influence of intoxicating liquor to drive a vehicle within this
16 state.

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

20 C. It is unlawful for:

21 (1) a person who has an alcohol concentration
22 of eight one hundredths or more in his blood or breath to drive
23 a vehicle within this state; or

24 (2) a person who has an alcohol concentration
25 of four one hundredths or more in his blood or breath to drive

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1 a commercial motor vehicle within this state.

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

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

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

10 (3) refused to submit to chemical testing, as
11 provided for in the Implied Consent Act, and in the judgment of
12 the court, based upon evidence of intoxication presented to the
13 court, was under the influence of intoxicating liquor or drugs.

14 E. A person under first 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 ninety days or by a fine of not more than five hundred dollars
18 (\$500), or both; provided that if the sentence is suspended in
19 whole or in part or deferred, the period of probation may
20 extend beyond ninety days but shall not exceed one year. Upon
21 a first conviction pursuant to this section, an offender may be
22 sentenced to not less than forty-eight hours of community
23 service or a fine of three hundred dollars (\$300). The
24 offender shall be ordered by the court to participate in and
25 complete a screening program described in Subsection K of this

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1 section and to attend a driver rehabilitation program for
2 alcohol or drugs, also known as a "DWI school", approved by the
3 bureau and also may be required to participate in other
4 rehabilitative services as the court shall determine to be
5 necessary. In addition to those penalties, when an offender
6 commits aggravated driving while under the influence of
7 intoxicating liquor or drugs, the offender shall be sentenced
8 to not less than forty-eight consecutive hours in jail. If an
9 offender fails to complete, within a time specified by the
10 court, any community service, screening program, treatment
11 program or DWI school ordered by the court or fails to comply
12 with any other condition of probation, the offender shall be
13 sentenced to not less than an additional forty-eight
14 consecutive hours in jail. [~~Notwithstanding any provision of
15 law to the contrary, if an offender's sentence was suspended or
16 deferred in whole or in part, and the offender violates any
17 condition of probation, the court may impose any sentence that
18 the court could have originally imposed and credit shall not be
19 given for time served by the offender on probation.~~] Any jail
20 sentence imposed pursuant to this subsection for failure to
21 complete, within a time specified by the court, any community
22 service, screening program, treatment program or DWI school
23 ordered by the court or for aggravated driving while under the
24 influence of intoxicating liquor or drugs shall not be
25 suspended, deferred or taken under advisement. On a first

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1 conviction pursuant to this section, any time spent in jail for
2 the offense prior to the conviction for that offense shall be
3 credited to any term of imprisonment fixed by the court. A
4 deferred sentence pursuant to this subsection shall be
5 considered a first conviction for the purpose of determining
6 subsequent convictions.

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

16 (1) upon a second conviction, an offender
17 shall be sentenced to a jail term of not less than ninety-six
18 consecutive hours, forty-eight hours of community service and a
19 fine of five hundred dollars (\$500). In addition to those
20 penalties, when an offender commits aggravated driving while
21 under the influence of intoxicating liquor or drugs, the
22 offender shall be sentenced to a jail term of not less than
23 ninety-six consecutive hours. If an offender fails to
24 complete, within a time specified by the court, any community
25 service, screening program or treatment program ordered by the

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1 court, the offender shall be sentenced to not less than an
2 additional seven consecutive days in jail. A penalty imposed
3 pursuant to this paragraph shall not be suspended or deferred
4 or taken under advisement; and

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

18 G. Upon a fourth conviction pursuant to this
19 section, an offender is guilty of a fourth degree felony and,
20 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
21 shall be sentenced to a term of imprisonment of eighteen
22 months, six months of which shall not be suspended, deferred or
23 taken under advisement.

24 H. Upon a fifth conviction pursuant to this
25 section, an offender is guilty of a fourth degree felony and,

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1 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
2 shall be sentenced to a term of imprisonment of two years, one
3 year of which shall not be suspended, deferred or taken under
4 advisement.

5 I. Upon a sixth conviction pursuant to this
6 section, an offender is guilty of a third degree felony and,
7 notwithstanding the provisions of Section 31-18-15 NMSA 1978,
8 shall be sentenced to a term of imprisonment of thirty months,
9 eighteen months of which shall not be suspended, deferred or
10 taken under advisement.

11 J. Upon a seventh or subsequent conviction pursuant
12 to this section, an offender is guilty of a third degree felony
13 and, notwithstanding the provisions of Section 31-18-15 NMSA
14 1978, shall be sentenced to a term of imprisonment of three
15 years, two years of which shall not be suspended, deferred or
16 taken under advisement.

17 K. Upon any conviction pursuant to this section, an
18 offender shall be required to participate in and complete,
19 within a time specified by the court, an alcohol or drug abuse
20 screening program approved by the department of finance and
21 administration and, if necessary, a treatment program approved
22 by the court. The requirement imposed pursuant to this
23 subsection shall not be suspended, deferred or taken under
24 advisement.

25 L. Upon a second or third conviction pursuant to
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1 this section, an offender shall be required to participate in
2 and complete, within a time specified by the court:

3 (1) not less than a twenty-eight-day
4 inpatient, residential or in-custody substance abuse treatment
5 program approved by the court;

6 (2) not less than a ninety-day outpatient
7 treatment program approved by the court;

8 (3) a drug court program approved by the
9 court; or

10 (4) any other substance abuse treatment
11 program approved by the court.

12 The requirement imposed pursuant to this subsection shall
13 not be suspended, deferred or taken under advisement.

14 M. Upon a felony conviction pursuant to this
15 section, the corrections department shall provide substance
16 abuse counseling and treatment to the offender in its custody.
17 While the offender is on probation or parole under its
18 supervision, the corrections department shall also provide
19 substance abuse counseling and treatment to the offender or
20 shall require the offender to obtain substance abuse counseling
21 and treatment.

22 ~~[N. Upon a first conviction for aggravated driving~~
23 ~~while under the influence of intoxicating liquor or drugs~~
24 ~~pursuant to the provisions of Subsection D of this section, as~~
25 ~~a condition of probation, an offender shall be required to have~~

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1 ~~an ignition interlock device installed and operating for a~~
2 ~~period of one year on all motor vehicles driven by the~~
3 ~~offender, pursuant to rules adopted by the bureau. Unless~~
4 ~~determined by the sentencing court to be indigent, the offender~~
5 ~~shall pay all costs associated with having an ignition~~
6 ~~interlock device installed on the appropriate motor vehicles.~~
7 ~~If an offender drives a motor vehicle that does not have an~~
8 ~~ignition interlock device installed on the motor vehicle, the~~
9 ~~offender may be in violation of the terms and conditions of his~~
10 ~~probation.~~

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

24 ~~P. Upon any subsequent conviction pursuant to this~~
25 ~~section, as a condition of probation, a subsequent offender~~

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1 ~~shall be required to have an ignition interlock device~~
 2 ~~installed and operating for a period of at least one year on~~
 3 ~~all motor vehicles driven by the subsequent offender, pursuant~~
 4 ~~to rules adopted by the bureau. Unless determined by the~~
 5 ~~sentencing court to be indigent, the subsequent offender shall~~
 6 ~~pay all costs associated with having an ignition interlock~~
 7 ~~device installed on the appropriate motor vehicles. If a~~
 8 ~~subsequent offender drives a motor vehicle that does not have~~
 9 ~~an ignition interlock device installed on the motor vehicle,~~
 10 ~~the subsequent offender may be in violation of the terms and~~
 11 ~~conditions of his probation.]~~

12 N. Upon a conviction pursuant to this section, an
 13 offender shall be required to obtain an ignition interlock
 14 license and have an ignition interlock device installed and
 15 operating on all motor vehicles driven by the offender,
 16 pursuant to rules adopted by the bureau. Unless determined by
 17 the sentencing court to be indigent, the offender shall pay all
 18 costs associated with having an ignition interlock device
 19 installed on the appropriate motor vehicles. The offender
 20 shall operate only those vehicles equipped with ignition
 21 interlock devices for:

22 (1) a period of one year, for a first
 23 offender;

24 (2) a period of two years, for a second
 25 conviction pursuant to this section;

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1 (3) a period of three years, for a third
2 conviction pursuant to this section; or

3 (4) the remainder of the offender's life, for
4 a fourth or subsequent conviction pursuant to this section.

5 O. Five years from the date of conviction and every
6 five years thereafter, a fourth or subsequent offender may
7 apply to a district court for removal of the ignition interlock
8 device requirement provided in this section and for restoration
9 of a driver's license. A district court may, for good cause
10 shown, remove the ignition interlock device requirement and
11 order restoration of the license; provided that the offender
12 has not been subsequently convicted of driving a motor vehicle
13 while under the influence of intoxicating liquor or drugs.
14 Good cause may include an alcohol screening and proof from the
15 interlock vendor that the person has not had violations of the
16 interlock device.

17 ~~[Q.]~~ P. In the case of a first, second or third
18 offense under this section, the magistrate court has concurrent
19 jurisdiction with district courts to try the offender.

20 ~~[R.]~~ Q. A conviction pursuant to a municipal or
21 county ordinance in New Mexico or a law of any other
22 jurisdiction, territory or possession of the United States or
23 of a tribe, when that ordinance or law is equivalent to New
24 Mexico law for driving while under the influence of
25 intoxicating liquor or drugs, and prescribes penalties for

1 driving while under the influence of intoxicating liquor or
2 drugs, shall be deemed to be a conviction pursuant to this
3 section for purposes of determining whether a conviction is a
4 second or subsequent conviction.

5 ~~[S-]~~ R. In addition to any other fine or fee that
6 may be imposed pursuant to the conviction or other disposition
7 of the offense under this section, the court may order the
8 offender to pay the costs of any court-ordered screening and
9 treatment programs.

10 S. With respect to this section and notwithstanding
11 any provision of law to the contrary, if an offender's sentence
12 was suspended or deferred in whole or in part and the offender
13 violates any condition of probation, the court may impose any
14 sentence that the court could have originally imposed and
15 credit shall not be given for time served by the offender on
16 probation.

17 T. As used in this section:

18 (1) "bodily injury" means an injury to a
19 person that is not likely to cause death or great bodily harm
20 to the person, but does cause painful temporary disfigurement
21 or temporary loss or impairment of the functions of any member
22 or organ of the person's body;

23 (2) "commercial motor vehicle" means a motor
24 vehicle or combination of motor vehicles used in commerce to
25 transport passengers or property if the motor vehicle:

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1 (a) has a gross combination weight
2 rating of more than twenty-six thousand pounds inclusive of a
3 towed unit with a gross vehicle weight rating of more than ten
4 thousand pounds;

5 (b) has a gross vehicle weight rating of
6 more than twenty-six thousand pounds;

7 (c) is designed to transport sixteen or
8 more passengers, including the driver; or

9 (d) is of any size and is used in the
10 transportation of hazardous materials, which requires the motor
11 vehicle to be placarded under applicable law; and

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