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HOUSE BILL 126

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; REQUIRING AN IGNITION INTERLOCK LICENSE PRIOR TO ISSUANCE OF A NEW MEXICO DRIVER'S LICENSE FOR CERTAIN PERSONS WHO HAVE DWI CONVICTIONS IN OTHER STATES; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAWS IN LAWS 2005.

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 by Laws 2005, Chapter 241, Section 1 and by Laws 2005, Chapter 269, Section 1) 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

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1 the division may, in its discretion, issue:

2 (1) an instruction permit to a person fifteen
3 years of age or over who is enrolled in and attending or has
4 completed a driver education course that includes a DWI
5 education and prevention component approved by the bureau or
6 offered by a public school;

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

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

13 (b) who has successfully completed a
14 practice driving component;

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

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

20 (b) who has complied with restrictions
21 on that license;

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

25 (d) who has not been adjudicated for an

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1 offense involving the use of alcohol or drugs during that
2 period and who has no pending adjudications alleging an offense
3 involving the use of alcohol or drugs at the time of
4 application; and

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

8 (a) the motorcycle is not in excess of
9 one hundred cubic centimeters displacement;

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

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

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

22 C. who is an habitual user of narcotic drugs or
23 alcohol or an habitual user of any drug to a degree that
24 renders the person incapable of safely driving a motor vehicle;

25 D. who is four or more times convicted of driving a

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1 motor vehicle while under the influence of intoxicating liquor
2 or narcotic drug regardless of whether the convictions are
3 under the laws or ordinances of this state or any municipality
4 or county of this state or under the laws or ordinances of any
5 other state, the District of Columbia or any governmental
6 subdivision thereof, except as provided in the Ignition
7 Interlock Licensing Act. Five years from the date of the
8 fourth conviction and every five years thereafter, the person
9 may apply to any district court of this state for restoration
10 of the license, and the court, upon good cause being shown, may
11 order restoration of the license applied for; provided that the
12 person has not been subsequently convicted of driving a motor
13 vehicle while under the influence of intoxicating liquor or
14 drugs. Upon issuance of the order of restoration, a certified
15 copy shall immediately be forwarded to the division, and if the
16 person is otherwise qualified for the license applied for, the
17 four previous convictions shall not prohibit issuance of the
18 license;

19 E. who was convicted on or after June 17, 2005 of
20 driving a motor vehicle while under the influence of
21 intoxicating liquor or drugs pursuant to the laws or ordinances
22 of any other state, the District of Columbia or any
23 governmental subdivision thereof, unless the person obtains an
24 ignition interlock license as provided in the Ignition
25 Interlock Licensing Act for:

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- 1 (1) a period of one year for a first
- 2 conviction;
- 3 (2) a period of two years for a second
- 4 conviction;
- 5 (3) a period of three years for a third
- 6 conviction; or
- 7 (4) the remainder of the offender's life for a
- 8 fourth or subsequent conviction, subject to a five-year review
- 9 as provided in Subsection D of this section;

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

15 [~~F.~~] G. who is required by the Motor Vehicle Code
16 to take an examination, unless the person has successfully
17 passed the examination;

18 [~~G.~~] H. who is required under the laws of this
19 state to deposit proof of financial responsibility and who has
20 not deposited the proof;

21 [~~H.~~] I. when the director has good cause to believe
22 that the operation of a motor vehicle on the highways by the
23 person would be inimical to public safety or welfare; or

24 [~~I.~~] J. as a motorcycle driver who is less than
25 eighteen years of age and who has not presented a certificate

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1 or other evidence of having successfully completed a motorcycle
2 driver education program licensed or offered in conformance
3 with rules of the bureau."

4 Section 2. Section 66-5-502 NMSA 1978 (being Laws 2003,
5 Chapter 239, Section 2, as amended) is amended to read:

6 "66-5-502. DEFINITIONS.--As used in the Ignition
7 Interlock Licensing Act:

8 A. "denied" means having an instructor's permit,
9 driver's license or provisional license denied for driving
10 while under the influence of intoxicating liquor or drugs,
11 pursuant to the provisions of Subsection D or E of Section
12 66-5-5 NMSA 1978;

13 B. "ignition interlock device" means a device,
14 approved by the traffic safety bureau, that prevents the
15 operation of a motor vehicle by an intoxicated or impaired
16 person;

17 C. "ignition interlock license" means a driver's
18 license issued to a person by the division that allows that
19 person to operate a motor vehicle with an ignition interlock
20 device after that person's instructor's permit, driver's
21 license or provisional license has been revoked or denied. The
22 division shall clearly mark an ignition interlock license to
23 distinguish it from other driver's licenses; and

24 D. "revoked" means having an instructor's permit,
25 driver's license or provisional license revoked for driving

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1 while under the influence of intoxicating liquor or drugs,
2 pursuant to the provisions of Section 66-8-102 or 66-8-111 NMSA
3 1978."

4 Section 3. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2007.

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