

1 SENATE BILL 435

2 **48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

3 INTRODUCED BY

4 James G. Taylor

5  
6  
7  
8 FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

9  
10 AN ACT

11 RELATING TO MOTOR VEHICLES; REQUIRING DOMICILE IN NEW MEXICO  
12 FOR A PERSON TO BE ISSUED A COMMERCIAL DRIVER'S LICENSE;  
13 PROHIBITING MASKING OF TRAFFIC CONTROL LAW VIOLATIONS COMMITTED  
14 BY THE HOLDER OF A COMMERCIAL DRIVER'S LICENSE; RECONCILING  
15 MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005;  
16 AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN  
17 EMERGENCY.

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 Section 1. Section 66-1-4.3 NMSA 1978 (being Laws 1990,  
21 Chapter 120, Section 4, as amended) is amended to read:

22 "66-1-4.3. DEFINITIONS.--As used in the Motor Vehicle  
23 Code:

24 A. "camping body" means a vehicle body primarily  
25 designed or converted for use as temporary living quarters for

.163164.3

underscored material = new  
[bracketed material] = delete

1 recreational, camping or travel activities;

2 B. "camping trailer" means a camping body, mounted  
3 on a chassis, or frame with wheels, designed to be drawn by  
4 another vehicle and that has collapsible partial side walls  
5 that fold for towing and unfold at the campsite;

6 C. "cancellation" means that a driver's license is  
7 annulled and terminated because of some error or defect or  
8 because the licensee is no longer entitled to the license, but  
9 cancellation of a license is without prejudice, and application  
10 for a new license may be made at any time after cancellation;

11 D. "casual sale" means the sale of a motor vehicle  
12 by the registered owner of the vehicle if the owner has not  
13 sold more than four vehicles in that calendar year;

14 E. "chassis" means the complete motor vehicle,  
15 including standard factory equipment, exclusive of the body and  
16 cab;

17 F. "collector" means a person who is the owner of  
18 one or more vehicles of historic or special interest who  
19 collects, purchases, acquires, trades or disposes of these  
20 vehicles or parts thereof for the person's own use in order to  
21 preserve, restore and maintain a similar vehicle for hobby  
22 purposes;

23 G. "combination" means any connected assemblage of  
24 a motor vehicle and one or more semitrailers, trailers or  
25 semitrailers converted to trailers by means of a converter

.163164.3

1 gear;

2 H. "combination gross vehicle weight" means the sum  
3 total of the gross vehicle weights of all units of a  
4 combination;

5 I. "commerce" means the transportation of persons,  
6 property or merchandise for hire, compensation, profit or in  
7 the furtherance of a commercial enterprise in this state or  
8 between New Mexico and a place outside New Mexico, including a  
9 place outside the United States;

10 J. "commercial motor vehicle" means a  
11 self-propelled or towed vehicle, other than special mobile  
12 equipment, used on public highways in commerce to transport  
13 passengers or property when the vehicle:

14 (1) is operated interstate and has a gross  
15 vehicle weight rating or gross combination weight rating, or  
16 gross vehicle weight or gross combination weight, of four  
17 thousand five hundred thirty-six kilograms, or ten thousand one  
18 pounds or more; or is operated only in intrastate commerce and  
19 has a gross vehicle weight rating or gross combination weight  
20 rating, or gross vehicle weight or gross combination weight, of  
21 twenty-six thousand one or more pounds;

22 (2) is designed or used to transport more than  
23 eight passengers, including the driver, and is used to  
24 transport passengers for compensation;

25 (3) is designed or used to transport sixteen

underscored material = new  
[bracketed material] = delete

1 or more [~~than fifteen~~] passengers, including the driver, and is  
2 not used to transport passengers for compensation; or

3 (4) is used to transport hazardous materials  
4 of the type or quantity requiring placarding under rules  
5 prescribed by applicable federal or state law;

6 K. "controlled-access highway" means every highway,  
7 street or roadway in respect to which owners or occupants of  
8 abutting lands and other persons have no legal right of access  
9 to or from the highway, street or roadway except at those  
10 points only and in the manner as may be determined by the  
11 public authority having jurisdiction over the highway, street  
12 or roadway;

13 L. "controlled substance" means any substance  
14 defined in Section 30-31-2 NMSA 1978 as a controlled substance;

15 M. "converter gear" means any assemblage of one or  
16 more axles with a fifth wheel mounted thereon, designed for use  
17 in a combination to support the front end of a semitrailer but  
18 not permanently attached thereto. A converter gear shall not  
19 be considered a vehicle, as that term is defined in Section  
20 66-1-4.19 NMSA 1978, but weight attributable thereto shall be  
21 included in declared gross weight;

22 N. "conviction" means:

23 (1) an unvacated adjudication of guilt, or a  
24 determination that a person has violated or failed to comply  
25 with the law by:

.163164.3

underscoring material = new  
[bracketed material] = delete

1                   (a) a court of original jurisdiction  
2     ~~[that a person has violated or failed to comply with the law];~~  
3     or

4                   (b) an authorized administrative  
5     tribunal;

6                   ~~[(2) an unvacated adjudication of guilt, or a~~  
7     ~~determination by an authorized administrative tribunal~~  
8     ~~authorized pursuant to the Implied Consent Act that a person~~  
9     ~~who holds a valid commercial driver's license has violated or~~  
10    ~~failed to comply with the law;~~

11                   ~~(3)]~~ (2) an unvacated forfeiture of bail or  
12    collateral deposited to secure ~~[the]~~ a person's appearance in  
13    court;

14                   ~~[(4)]~~ (3) a plea of guilty or nolo contendere  
15    accepted by the court;

16                   ~~[(5)]~~ (4) the payment of a fine or court cost;  
17    ~~[or~~

18                   ~~(6)]~~ (5) a violation of a condition of release  
19    without bail, regardless of whether the payment is rebated,  
20    suspended or probated; or

21                   (6) an assignment to a diversion program or a  
22    driver improvement school;

23                   0. "crosswalk" means:

24                   (1) that part of a roadway at an intersection  
25    included within the connections of the lateral lines of the

underscored material = new  
[bracketed material] = delete

1 sidewalks on opposite sides of the highway measured from the  
2 curbs or, in the absence of curbs, from the edges of the  
3 traversable roadway; and

4 (2) any portion of a roadway at an  
5 intersection or elsewhere distinctly indicated for pedestrian  
6 crossing by lines or other markings on the surface; and

7 P. "curb cut" means a short ramp through a curb or  
8 built up to the curb."

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

11 "66-1-4.16. DEFINITIONS.--As used in the Motor Vehicle  
12 Code:

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

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

24 C. "salvage vehicle" means a vehicle:

25 (1) other than a nonrepairable vehicle, of a

.163164.3

1 type subject to registration that has been wrecked, destroyed  
2 or damaged excluding, pursuant to rules issued by the  
3 department, hail damage, to the extent that the owner, leasing  
4 company, financial institution or the insurance company that  
5 insured or is responsible for repair of the vehicle considers  
6 it uneconomical to repair the vehicle and that is subsequently  
7 not repaired by or for the person who owned the vehicle at the  
8 time of the event resulting in damage; or

9 (2) that was determined to be uneconomical to  
10 repair and for which a total loss payment is made by an  
11 insurer, whether or not the vehicle is subsequently repaired,  
12 if, prior to or upon making payment to the claimant, the  
13 insurer obtained the agreement of the claimant to the amount of  
14 the total loss settlement and informed the claimant that,  
15 pursuant to rules of the department, the title must be branded  
16 and submitted to the department for issuance of a salvage  
17 certificate of title for the vehicle;

18 D. "school bus" means a commercial motor vehicle  
19 used to transport preprimary, primary or secondary school  
20 students from home to school, from school to home or to and  
21 from school-sponsored events, but not including a vehicle:

22 (1) operated by a common carrier, subject to  
23 and meeting all requirements of the public regulation  
24 commission but not used exclusively for the transportation of  
25 students;

.163164.3

underscoring material = new  
[bracketed material] = delete

1 (2) operated solely by a government-owned  
2 transit authority, if the transit authority meets all safety  
3 requirements of the public regulation commission but is not  
4 used exclusively for the transportation of students; or

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

7 E. "seal" means the official seal of the taxation  
8 and revenue department as designated by the secretary;

9 F. "secretary" means the secretary of taxation and  
10 revenue, and, except for the purposes of Sections 66-2-3  
11 and 66-2-12 NMSA 1978, also includes the deputy secretary and  
12 any division director delegated by the secretary;

13 G. "semitrailer" means a vehicle without motive  
14 power, other than a pole trailer, designed for carrying persons  
15 or property and for being drawn by a motor vehicle and so  
16 constructed that some significant part of its weight and that  
17 of its load rests upon or is carried by another vehicle;

18 H. "sidewalk" means a portion of street between the  
19 curb lines, or the lateral lines of a roadway, and the adjacent  
20 property lines, intended for the use of pedestrians;

21 I. "slow-moving vehicle" means a vehicle that is  
22 ordinarily moved, operated or driven at a speed less than  
23 twenty-five miles per hour;

24 J. "solid tire" means every tire of rubber or other  
25 resilient material that does not depend upon compressed air for

.163164.3



1 the support of the load;

2 K. "special mobile equipment" means a vehicle not  
3 designed or used primarily for the transportation of persons or  
4 property and incidentally operated or moved over the highways,  
5 including but not limited to farm tractors, road construction  
6 or maintenance machinery, ditch-digging apparatus, well-boring  
7 apparatus and concrete mixers;

8 L. "specially constructed vehicle" means a vehicle  
9 of a type required to be registered under the Motor Vehicle  
10 Code not originally constructed under a distinctive name, make,  
11 model or type by a generally recognized manufacturer of  
12 vehicles and not materially altered from its original  
13 construction;

14 M. "state" means a state, territory or possession  
15 of the United States, the District of Columbia or any state of  
16 the Republic of Mexico or the Federal District of Mexico or a  
17 province of the Dominion of Canada;

18 N. "state highway" means a public highway that has  
19 been designated as a state highway by the legislature, the  
20 state transportation commission or the secretary of  
21 transportation;

22 O. "stop", when required, means complete cessation  
23 from movement;

24 P. "stop, stopping or standing", when prohibited,  
25 means any stopping or standing of a vehicle, whether occupied

.163164.3

underscored material = new  
[bracketed material] = delete

1 or not, except when necessary to avoid conflict with other  
2 traffic or in compliance with the directions of a police  
3 officer or traffic-control sign or signal;

4 Q. "street" or "highway" means a way or place  
5 generally open to the use of the public as a matter of right  
6 for the purpose of vehicular travel, even though it may be  
7 temporarily closed or restricted for the purpose of  
8 construction, maintenance, repair or reconstruction;

9 R. "subsequent offender" means a person who was  
10 previously a first offender and who again, under state law,  
11 federal law or a municipal ordinance or a tribal law, has been  
12 adjudicated guilty of the charge of driving a motor vehicle  
13 while under the influence of intoxicating liquor or any drug  
14 that rendered the person incapable of safely driving a motor  
15 vehicle, regardless of whether the person's sentence was  
16 suspended or deferred; and

17 S. "suspension" means that a person's driver's  
18 license and privilege to drive a motor vehicle on the public  
19 highways are temporarily withdrawn."

20 Section 3. Section 66-5-4 NMSA 1978 (being Laws 1978,  
21 Chapter 35, Section 226, as amended) is amended to read:

22 "66-5-4. PERSONS EXEMPT FROM LICENSURE.--The following  
23 persons are exempt from licensure under the Motor Vehicle Code:

24 A. ~~[any employee of the United States while driving~~  
25 ~~a motor vehicle owned by or leased to the United States and~~

.163164.3

underscored material = new  
[bracketed material] = delete

1 ~~being driven on official business]~~ military personnel while  
2 driving a motor vehicle owned or leased by the United States  
3 department of defense;

4 B. ~~[any]~~ a person who is at least fifteen years of  
5 age and who has in ~~[his]~~ immediate possession a valid driver's  
6 license issued to ~~[him]~~ the person in ~~[his]~~ the person's home  
7 state or country may drive a motor vehicle in this state,  
8 except that the person shall obtain a license upon becoming a  
9 resident and before ~~[he]~~ the person is employed for  
10 compensation by another for the purpose of driving a motor  
11 vehicle;

12 C. ~~[any]~~ a nonresident who is at least eighteen  
13 years of age whose home state or country does not require the  
14 licensing of drivers may drive a motor vehicle for a period of  
15 not more than one hundred eighty days in any calendar year if  
16 the motor vehicle driven is duly registered in the home state  
17 or country of the nonresident;

18 D. ~~[any]~~ a driver of a farm tractor or implement of  
19 husbandry temporarily drawn, moved or propelled on the highway;  
20 and

21 E. ~~[any]~~ a driver of an off-highway motorcycle."

22 Section 4. Section 66-5-54 NMSA 1978 (being Laws 1989,  
23 Chapter 14, Section 3, as amended) is amended to read:

24 "66-5-54. DEFINITIONS.--As used in the New Mexico  
25 Commercial Driver's License Act:

.163164.3

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A. "commerce" means:

(1) trade, traffic or transportation within the jurisdiction of the United States between a place in New Mexico and a place outside of New Mexico, including a place outside of the United States; and

(2) trade, traffic or transportation in the United States that affects any trade, traffic or transportation described in Paragraph (1) of this subsection;

B. "commercial driver's license information system" means the information system created pursuant to the federal Commercial Motor Vehicle Safety Act of 1986 that contains information pertaining to operators of commercial motor vehicles;

C. "commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

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

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

(3) is designed to transport sixteen or more passengers, including the driver; or

(4) is of any size and is used in the

underscoring material = new  
[bracketed material] = delete

1 transportation of hazardous materials, which requires the motor  
2 vehicle to be placarded under applicable law;

3 D. "director" means the director of the motor  
4 vehicle division of the department;

5 E. "disqualification" means:

6 (1) a suspension, revocation or cancellation  
7 of a commercial driver's license by the state or jurisdiction  
8 that issued the commercial driver's license;

9 (2) a withdrawal of a person's privileges to  
10 drive a commercial motor vehicle by a state or other  
11 jurisdiction as the result of a violation of state or local law  
12 relating to motor vehicle control other than a parking, vehicle  
13 weight or vehicle defect violation; and

14 (3) a determination by the federal motor  
15 carrier safety administration that a person is not qualified to  
16 operate a motor vehicle;

17 F. "division" means the motor vehicle division of  
18 the department;

19 G. "driving a commercial motor vehicle while under  
20 the influence of alcohol" means:

21 (1) driving a commercial motor vehicle while  
22 the driver has an alcohol concentration in the driver's blood  
23 or breath of four one hundredths or more;

24 (2) driving a commercial motor vehicle while  
25 the driver is under the influence of intoxicating liquor; or

.163164.3

underscored material = new  
[bracketed material] = delete

1 (3) refusal to submit to chemical tests  
2 administered pursuant to Section 66-8-107 NMSA 1978;

3 H. "employee" means an operator of a commercial  
4 motor vehicle, including full-time, regularly employed drivers;  
5 casual, intermittent or occasional drivers; leased drivers; and  
6 independent owner-operator contractors, while in the course of  
7 operating a commercial motor vehicle, who is either directly  
8 employed by or under lease to an employer;

9 I. "employer" means a person, including the United  
10 States, a state and a political subdivision of a state or their  
11 agencies or instrumentalities, that owns or leases a commercial  
12 motor vehicle or assigns employees to operate such a vehicle;

13 J. "fatality" means the death of a person as a  
14 result of a motor vehicle accident;

15 K. "gross combination weight rating" means the  
16 value specified by the manufacturer as the loaded weight of a  
17 combination vehicle. In the absence of a value specified by  
18 the manufacturer, gross combination weight rating shall be  
19 determined by adding the gross vehicle weight rating of the  
20 power unit and the total weight of the towed unit or units and  
21 any load thereon;

22 L. "gross vehicle weight rating" means the value  
23 specified by the manufacturer as the loaded weight of a single  
24 vehicle;

25 M. "imminent hazard" means a condition that

.163164.3

underscoring material = new  
[bracketed material] = delete

1 presents a substantial likelihood that death, serious illness,  
2 severe personal injury or a substantial endangerment to health,  
3 property or the environment will occur before the reasonable  
4 foreseeable completion date of a formal proceeding to lessen  
5 the risk of that death, illness, injury or endangerment;

6 N. "noncommercial motor vehicle" means a motor  
7 vehicle or combination of motor vehicles that is not a  
8 commercial motor vehicle;

9 O. "nonresident commercial driver's license" means  
10 a commercial driver's license issued by another state to a  
11 person domiciled in that state or by a foreign country to a  
12 person domiciled in that country;

13 P. "out-of-service order" means a declaration by an  
14 authorized enforcement officer of a federal, state, Canadian,  
15 Mexican or local jurisdiction that a driver, a commercial motor  
16 vehicle or a motor carrier operation is temporarily prohibited  
17 from operating;

18 Q. "railroad-highway grade crossing violation"  
19 means a violation of a provision of Section 66-7-341 or  
20 66-7-343 NMSA 1978 or a violation of federal or local law or  
21 rule pertaining to stopping at or crossing a railroad-highway  
22 grade crossing; [and]

23 R. "serious traffic violation" means conviction of  
24 any of the following if committed when operating a motor  
25 vehicle:

.163164.3

underscoring material = new  
[bracketed material] = delete

1 (1) speed of fifteen miles or more per hour  
2 above the posted limits;

3 (2) reckless driving as defined by Section  
4 66-8-113 NMSA 1978 or a municipal ordinance or the law of  
5 another state;

6 (3) homicide by vehicle, as defined in Section  
7 66-8-101 NMSA 1978;

8 (4) injury to pregnant woman by vehicle as  
9 defined in Section 66-8-101.1 NMSA 1978 or a municipal  
10 ordinance or the law of another state;

11 (5) any other violation of law relating to  
12 motor vehicle traffic control, other than a parking violation,  
13 that the secretary determines by regulation to be a serious  
14 traffic violation. "Serious traffic violation" does not  
15 include a vehicle weight or vehicle defect violation;

16 (6) improper or erratic lane changes in  
17 violation of Section 66-7-317 NMSA 1978;

18 (7) following another vehicle too closely in  
19 violation of Section 66-7-318 NMSA 1978;

20 (8) directly or indirectly causing death or  
21 great bodily injury to a human being in the unlawful operation  
22 of a motor vehicle in violation of Section 66-8-101 NMSA 1978;

23 (9) driving a commercial motor vehicle without  
24 possession of a commercial driver's license in violation of  
25 Section 66-5-59 NMSA 1978;

.163164.3



underscored material = new  
[bracketed material] = delete

1 (10) driving a commercial motor vehicle  
2 without the proper class of commercial driver's license and  
3 endorsements pursuant to Section 66-5-65 NMSA 1978 and the  
4 Motor Carrier Safety Act for the specific vehicle group  
5 operated or for the passengers or type of cargo transported; or

6 (11) driving a commercial motor vehicle  
7 without obtaining a commercial driver's license in violation of  
8 Section 66-5-59 NMSA 1978; and

9 S. "state of domicile" means the state in which a  
10 person has a true, fixed and permanent home and principal  
11 residence and to which the person has the intention of  
12 returning whenever the person has been absent from that state."

13 Section 5. Section 66-5-60 NMSA 1978 (being Laws 1989,  
14 Chapter 14, Section 9, as amended) is amended to read:

15 "66-5-60. COMMERCIAL DRIVER'S LICENSE--QUALIFICATIONS--  
16 STANDARDS.--

17 A. The division shall not issue a commercial  
18 driver's license to a person unless that person [~~is a resident~~  
19 ~~of New Mexico~~] can establish that New Mexico is the person's  
20 state of domicile and has passed a knowledge and skills test  
21 for driving a commercial motor vehicle and for related  
22 endorsements, has passed a medical fitness test and has  
23 satisfied any other requirements of the New Mexico Commercial  
24 Driver's License Act.

25 B. The division may authorize a person, including

.163164.3

underscored material = new  
[bracketed material] = delete

1 an agency of this or another state, an employer, a private  
2 driver-training facility or other private institution or a  
3 department, agency or instrumentality of local government to  
4 administer the skills test specified by this section.

5 C. The director may waive the requirement of any  
6 test specified in this section for a commercial driver's  
7 license applicant who complies with the other provisions of the  
8 New Mexico Commercial Driver's License Act through any  
9 pertinent rules, regulations or contractual agreements with the  
10 public education department, other governments or private  
11 entities.

12 D. A commercial driver's license applicant shall  
13 not take a test specified in this section more than three times  
14 within one year.

15 E. If the department determines that a commercial  
16 driver's license applicant has committed an offense in taking a  
17 test specified in this section, the division shall not issue a  
18 commercial driver's license to that applicant within one year  
19 of the department's determination."

20 Section 6. Section 66-5-65 NMSA 1978 (being Laws 1989,  
21 Chapter 14, Section 14, as amended) is amended to read:

22 "66-5-65. CLASSIFICATIONS--ENDORSEMENTS--RESTRICTIONS.--

23 A. Commercial driver's licenses may be issued with  
24 the classifications, endorsements and restrictions enumerated  
25 in Subsections B, C and D of this section, provided that the

.163164.3

1 applicant has passed the knowledge and skills test required by  
2 the department. The holder of a valid commercial driver's  
3 license may drive all vehicles in the class for which that  
4 license is issued and all lesser classes of vehicles except  
5 motorcycles and vehicles that require an endorsement, unless  
6 the proper endorsement appears on the license.

7 B. The following classifications shall apply to  
8 commercial driver's licenses:

9 (1) class A - any combination of vehicles with  
10 a gross combination weight rating of more than twenty-six  
11 thousand pounds, if the gross vehicle weight rating of the  
12 vehicle or vehicles being towed is in excess of ten thousand  
13 pounds;

14 (2) class B - any single vehicle with a gross  
15 vehicle weight rating of more than twenty-six thousand pounds  
16 and any such vehicle towing a vehicle with a gross vehicle  
17 weight rating of ten thousand pounds or less; and

18 (3) class C - any single vehicle or  
19 combination of vehicles that does not meet either the  
20 definition of Paragraph (1) or (2) of this subsection but is:

21 (a) designed to transport sixteen or  
22 more passengers, including the driver; or

23 (b) used in the transportation of  
24 hazardous materials, which requires the vehicle to be placarded  
25 under applicable law.

.163164.3

underscoring material = new  
[bracketed material] = delete

1 C. The secretary, by regulation, may provide for  
2 classifications in addition to those set forth in Subsection B  
3 of this section.

4 D. The following endorsements and restrictions  
5 shall apply to commercial driver's licenses:

6 (1) "H" - authorizes driving a vehicle  
7 transporting hazardous material;

8 (2) "L" - restricts the driver to vehicles not  
9 equipped with airbrakes;

10 (3) "T" - authorizes driving a vehicle towing  
11 more than one trailer;

12 (4) "P" - authorizes driving vehicles, other  
13 than school buses, carrying passengers;

14 (5) "N" - authorizes driving tank vehicles;

15 (6) "X" - represents a combination of the  
16 hazardous material ("H") and tank vehicle ("N") endorsements;

17 (7) "S" - authorizes driving a school bus; and

18 (8) "K" - restricts the driver to driving a  
19 commercial motor vehicle in intrastate commerce only.

20 E. The department shall require an applicant  
21 requesting a hazardous material ("H") endorsement to be subject  
22 to a background check pursuant to the federal Uniting and  
23 Strengthening America by Providing Appropriate Tools Required  
24 to Intercept and Obstruct Terrorism Act of 2001. Information  
25 received pursuant to a background check required by the federal

.163164.3

underscored material = new  
[bracketed material] = delete

1 transportation security administration of the department of  
2 homeland security shall be kept confidential and shall be  
3 released only to the subject of the background check and the  
4 division. Fees charged for the background check shall be borne  
5 by the subject of the background check or by the employer."

6 Section 7. Section 66-5-67 NMSA 1978 (being Laws 1989,  
7 Chapter 14, Section 16, as amended) is amended to read:

8 "66-5-67. EXPIRATION AND RENEWAL--STAGGERED LICENSING  
9 DURING IMPLEMENTATION PERIOD.--

10 A. Except as provided in [~~Subsection~~] Subsections C  
11 and E of this section, a commercial driver's license issued  
12 pursuant to the provisions of the New Mexico Commercial  
13 Driver's License Act shall expire thirty days after the  
14 applicant's birthday in the fourth year after the effective  
15 date of the license.

16 B. The license is renewable within ninety days  
17 prior to its expiration or at an earlier date as approved by  
18 the secretary.

19 C. At the option of an applicant, a commercial  
20 driver's license may be issued for a period of eight years,  
21 provided that the applicant:

22 (1) pays the amount required for a commercial  
23 driver's license issued for a term of eight years;

24 (2) otherwise qualifies for a four-year  
25 commercial driver's license; and

.163164.3

underscored material = new  
[bracketed material] = delete

1 (3) will not reach the age of seventy-five  
2 during the last four years of the eight-year license period.

3 D. A driver's license issued pursuant to the  
4 provisions of Subsection C of this section shall expire thirty  
5 days after the applicant's birthday in the eighth year after  
6 the effective date of the license.

7 E. A commercial driver's license with a hazardous  
8 material endorsement shall expire:

9 (1) for an applicant transferring a commercial  
10 driver's license with the hazardous material endorsement, four  
11 years from the date of the last background check and testing  
12 for the hazardous material endorsement; or

13 (2) for an applicant adding endorsements or  
14 other changes to the commercial driver's license, no later than  
15 the expiration date of the commercial driver's license  
16 originally issued with the hazardous material endorsement."

17 Section 8. Section 66-5-68 NMSA 1978 (being Laws 1989,  
18 Chapter 14, Section 17, as amended by Laws 2005, Chapter 310,  
19 Section 3 and by Laws 2005, Chapter 312, Section 7) is amended  
20 to read:

21 "66-5-68. DISQUALIFICATION.--

22 A. The department shall disqualify a person from  
23 driving a commercial motor vehicle for at least thirty days if  
24 the federal motor carrier safety administration reports to the  
25 division that the person poses an imminent hazard.

.163164.3

underscored material = new  
[bracketed material] = delete

1           B. The department shall disqualify a person who  
2 holds a commercial driver's license from driving a commercial  
3 motor vehicle for a period of not less than one year, which  
4 shall run concurrently with any revocation or suspension action  
5 for the same offense, if the person:

6                   (1) refuses to submit to a chemical test when  
7 requested pursuant to the provisions of the Implied Consent  
8 Act;

9                   (2) is twenty-one years of age or more and  
10 submits to chemical testing pursuant to the Implied Consent Act  
11 and the test results indicate an alcohol concentration of eight  
12 one hundredths or more;

13                   (3) submits to chemical testing pursuant to  
14 the Implied Consent Act and the test results indicate an  
15 alcohol concentration of four one hundredths or more if the  
16 person is driving a commercial motor vehicle;

17                   (4) is less than twenty-one years of age and  
18 submits to chemical testing pursuant to the Implied Consent Act  
19 and the test results indicate an alcohol concentration of two  
20 one hundredths or more; or

21                   (5) is convicted of a violation of:

22                           (a) driving a [~~commercial~~] motor vehicle  
23 while under the influence of intoxicating liquor or drugs in  
24 violation of Section 66-8-102 NMSA 1978, an ordinance of a  
25 municipality of this state or the law of another state;

.163164.3

underscored material = new  
[bracketed material] = delete

1 (b) leaving the scene of an accident  
2 involving a commercial motor vehicle driven by the person in  
3 violation of Section 66-7-201 NMSA 1978 or an ordinance of a  
4 municipality of this state or the law of another state;

5 (c) using a [~~commercial~~] motor vehicle  
6 in the commission of a felony;

7 (d) driving a commercial motor vehicle  
8 after the driver's commercial driver's license is revoked,  
9 suspended, disqualified or canceled for violations while  
10 operating a commercial motor vehicle; or

11 (e) causing a fatality in the unlawful  
12 operation of a motor vehicle pursuant to Section 66-8-101 NMSA  
13 1978.

14 C. The department shall disqualify a person from  
15 driving a commercial motor vehicle for a period of not less  
16 than three years if any of the violations specified in  
17 Subsection B of this section occur while transporting a  
18 hazardous material required to be placarded.

19 D. The department shall disqualify a person from  
20 driving a commercial motor vehicle for life if convicted of two  
21 or more violations of any of the offenses specified in  
22 Subsection B of this section, or any combination of those  
23 offenses, arising from two or more separate incidents, but the  
24 secretary may issue regulations establishing guidelines,  
25 including conditions, under which a disqualification for life

.163164.3



underscoring material = new  
[bracketed material] = delete

1 under this subsection may be reduced to a period of not less  
2 than ten years. This subsection applies only to those offenses  
3 committed after July 1, 1989.

4 E. The department shall disqualify a person from  
5 driving a commercial motor vehicle for life if the person uses  
6 a commercial motor vehicle in the commission of any felony  
7 involving the manufacture, distribution or dispensing of a  
8 controlled substance or the possession with intent to  
9 manufacture, distribute or dispense a controlled substance.

10 F. The department shall disqualify a person from  
11 driving a commercial motor vehicle for a period of not less  
12 than sixty days if convicted of two serious traffic violations  
13 or one hundred twenty days if convicted of three serious  
14 traffic violations, if the violations were committed while  
15 driving a commercial motor vehicle, arising from separate  
16 incidents occurring within a three-year period.

17 G. The department shall disqualify a person from  
18 driving a commercial motor vehicle for a period of not less  
19 than one hundred eighty days nor more than two years if the  
20 person is convicted of a first violation of an out-of-service  
21 order while transporting hazardous materials required to be  
22 placarded pursuant to the federal Hazardous Materials  
23 Transportation Act or while operating a motor vehicle designed  
24 to transport more than fifteen passengers, including the  
25 driver. The department shall disqualify a person from driving

.163164.3

1 a commercial motor vehicle for a period of not less than three  
2 years nor more than five years if, during any ten-year period,  
3 the person is convicted of any subsequent violations of out-of-  
4 service orders, in separate incidents, while transporting  
5 hazardous materials required to be placarded pursuant to that  
6 act or while operating a motor vehicle designed to transport  
7 more than fifteen passengers, including the driver.

8 H. The department shall disqualify a person from  
9 driving a commercial motor vehicle for sixty days if:

10 (1) the person has been convicted of two  
11 serious traffic violations in separate incidents within a  
12 three-year period; and

13 (2) the second conviction results in  
14 revocation, cancellation or suspension of the person's  
15 commercial driver's license or noncommercial motor vehicle  
16 driving privileges for sixty days.

17 I. The department shall disqualify a person from  
18 driving a commercial motor vehicle for one hundred twenty days,  
19 in addition to any other period of disqualification, if:

20 (1) the person has been convicted of more than  
21 two serious traffic violations within a three-year period; and

22 (2) the third or a subsequent conviction  
23 results in the revocation, cancellation or suspension of the  
24 person's commercial driver's license or noncommercial motor  
25 vehicle driving privileges.

.163164.3

underscored material = new  
[bracketed material] = delete

1           J. When a person is disqualified from driving a  
2 commercial motor vehicle, any commercial driver's license held  
3 by that person is invalidated without separate proceeding of  
4 any kind and the driver is not eligible to apply for a  
5 commercial driver's license until the period of time for which  
6 the driver was disqualified has elapsed.

7           K. The department shall disqualify a person from  
8 driving a commercial motor vehicle for not less than:

9                   (1) sixty days if the person is convicted of a  
10 first violation of a railroad-highway grade crossing violation;

11                   (2) one hundred twenty days if, during any  
12 three-year period, the person is convicted of a second  
13 railroad-highway grade crossing violation in a separate  
14 incident; and

15                   (3) one year if, during any three-year period,  
16 the person is convicted of a third or subsequent railroad-  
17 highway grade crossing violation in a separate incident.

18           L. After disqualifying, suspending, revoking or  
19 canceling a commercial driver's license, the department shall,  
20 within ten days, update its records to reflect that action.  
21 After disqualifying, suspending, revoking or canceling a  
22 nonresident commercial driver's privileges, the department  
23 shall, within ten days, notify the licensing authority of the  
24 state that issued the commercial driver's license.

25           M. When disqualifying, suspending, revoking or

.163164.3

underscored material = new  
[bracketed material] = delete

1 canceling a commercial driver's license, the department shall  
2 treat a conviction received in another state in the same manner  
3 as if it was received in this state.

4 [M-] N. The department shall post and enforce any  
5 disqualification sent by the federal motor carrier safety  
6 administration to the department that indicates that a  
7 commercial motor vehicle driver poses an imminent hazard.

8 [N-] O. The transportation security administration  
9 of the department of homeland security shall provide for an  
10 appeal of a disqualification for a commercial driver's license  
11 hazardous materials endorsement on the basis of a background  
12 check, and the department shall provide to a hazardous  
13 materials applicant a copy of the procedures established by the  
14 transportation security administration, on request, at the time  
15 of application.

16 [O-] P. New Mexico shall conform to the federal  
17 transportation security administration of the department of  
18 homeland security rules and shall "look back" or review a  
19 maximum of seven years for a background check."

20 Section 9. A new section of the New Mexico Commercial  
21 Driver's License Act is enacted to read:

22 "[NEW MATERIAL] VIOLATION CONVICTIONS--ACTIONS TO MASK,  
23 DEFER OR DIVERT--PROHIBITED.--

24 A. A person shall take no action to prevent a  
25 conviction of a traffic control law violation from appearing on

underscored material = new  
[bracketed material] = delete

1 the driving record of a commercial driver's license holder,  
2 regardless of the vehicle or state in which the violation  
3 occurred, including:

4 (1) masking or deferring imposition of a  
5 judgment of a traffic control law violation committed by a  
6 holder of a commercial driver's license; or

7 (2) allowing a holder of a commercial driver's  
8 license to enter a diversion program upon conviction of a  
9 traffic control law violation.

10 B. As used in this section, "traffic control law  
11 violation" does not include a parking violation."

12 Section 10. Section 66-8-102 NMSA 1978 (being Laws 1953,  
13 Chapter 139, Section 54, as amended by Laws 2005, Chapter 241,  
14 Section 5 and by Laws 2005, Chapter 269, Section 5) is amended  
15 to read:

16 "66-8-102. PERSONS UNDER THE INFLUENCE OF INTOXICATING  
17 LIQUOR OR DRUGS--AGGRAVATED DRIVING WHILE UNDER THE INFLUENCE  
18 OF INTOXICATING LIQUOR OR DRUGS--PENALTY.--

19 A. It is unlawful for a person who is under the  
20 influence of intoxicating liquor to drive a vehicle within this  
21 state.

22 B. It is unlawful for a person who is under the  
23 influence of any drug to a degree that renders [him] the person  
24 incapable of safely driving a vehicle to drive a vehicle within  
25 this state.

.163164.3

underscored material = new  
[bracketed material] = delete

1 C. It is unlawful for:

2 (1) a person who has an alcohol concentration  
3 of eight one hundredths or more in [~~his~~] the person's blood or  
4 breath to drive a vehicle within this state; or

5 (2) a person who has an alcohol concentration  
6 of four one hundredths or more in [~~his~~] the person's blood or  
7 breath to drive a commercial motor vehicle within this state.

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

10 (1) has an alcohol concentration of sixteen  
11 one hundredths or more in [~~his~~] the person's blood or breath  
12 while driving a vehicle within this state;

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

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

20 E. A person under first conviction pursuant to this  
21 section shall be punished, notwithstanding the provisions of  
22 Section 31-18-13 NMSA 1978, by imprisonment for not more than  
23 ninety days or by a fine of not more than five hundred dollars  
24 (\$500), or both; provided that if the sentence is suspended in  
25 whole or in part or deferred, the period of probation may

.163164.3

underscoring material = new  
[bracketed material] = delete

1 extend beyond ninety days but shall not exceed one year. Upon  
2 a first conviction pursuant to this section, an offender shall  
3 be sentenced to not less than twenty-four hours and not more  
4 than forty-eight hours of community service. In addition, the  
5 offender may be required to pay a fine of three hundred dollars  
6 (\$300). The offender shall be ordered by the court to  
7 participate in and complete a screening program described in  
8 Subsection K of this section and to attend a driver  
9 rehabilitation program for alcohol or drugs, also known as a  
10 "DWI school", approved by the bureau and also may be required  
11 to participate in other rehabilitative services as the court  
12 shall determine to be necessary. In addition to those  
13 penalties, when an offender commits aggravated driving while  
14 under the influence of intoxicating liquor or drugs, the  
15 offender shall be sentenced to not less than forty-eight  
16 consecutive hours in jail. If an offender fails to complete,  
17 within a time specified by the court, any community service,  
18 screening program, treatment program or DWI school ordered by  
19 the court or fails to comply with any other condition of  
20 probation, the offender shall be sentenced to not less than an  
21 additional forty-eight consecutive hours in jail. Any jail  
22 sentence imposed pursuant to this subsection for failure to  
23 complete, within a time specified by the court, any community  
24 service, screening program, treatment program or DWI school  
25 ordered by the court or for aggravated driving while under the

.163164.3

underscoring material = new  
[bracketed material] = delete

1 influence of intoxicating liquor or drugs shall not be  
2 suspended, deferred or taken under advisement. On a first  
3 conviction pursuant to this section, any time spent in jail for  
4 the offense prior to the conviction for that offense shall be  
5 credited to any term of imprisonment fixed by the court. A  
6 deferred sentence pursuant to this subsection shall be  
7 considered a first conviction for the purpose of determining  
8 subsequent convictions.

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

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

.163164.3



underscoring material = new  
[bracketed material] = delete

1 complete, within a time specified by the court, any community  
2 service, screening program or treatment program ordered by the  
3 court, the offender shall be sentenced to not less than an  
4 additional seven consecutive days in jail. A penalty imposed  
5 pursuant to this paragraph shall not be suspended or deferred  
6 or taken under advisement; and

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

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

.163164.3

underscoring material = new  
[bracketed material] = delete

1 taken under advisement.

2 H. Upon a fifth conviction pursuant to this  
3 section, an offender is guilty of a fourth degree felony and,  
4 notwithstanding the provisions of Section 31-18-15 NMSA 1978,  
5 shall be sentenced to a term of imprisonment of two years, one  
6 year of which shall not be suspended, deferred or taken under  
7 advisement.

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

14 J. Upon a seventh or subsequent conviction pursuant  
15 to this section, an offender is guilty of a third degree felony  
16 and, notwithstanding the provisions of Section 31-18-15 NMSA  
17 1978, shall be sentenced to a term of imprisonment of three  
18 years, two years of which shall not be suspended, deferred or  
19 taken under advisement.

20 K. Upon any conviction pursuant to this section, an  
21 offender shall be required to participate in and complete,  
22 within a time specified by the court, an alcohol or drug abuse  
23 screening program approved by the department of finance and  
24 administration and, if necessary, a treatment program approved  
25 by the court. The requirement imposed pursuant to this

.163164.3

underscoring material = new  
[bracketed material] = delete

1 subsection shall not be suspended, deferred or taken under  
2 advisement.

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

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

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

11 (3) a drug court program approved by the  
12 court; or

13 (4) any other substance abuse treatment  
14 program approved by the court.

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

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

25 N. Upon a conviction pursuant to this section, an

.163164.3

underscoring material = new  
[bracketed material] = delete

1 offender shall be required to obtain an ignition interlock  
2 license and have an ignition interlock device installed and  
3 operating on all motor vehicles driven by the offender,  
4 pursuant to rules adopted by the bureau. Unless determined by  
5 the sentencing court to be indigent, the offender shall pay all  
6 costs associated with having an ignition interlock device  
7 installed on the appropriate motor vehicles. The offender  
8 shall operate only those vehicles equipped with ignition  
9 interlock devices for:

10 (1) a period of one year, for a first  
11 offender;

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

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

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

18 0. Five years from the date of conviction and every  
19 five years thereafter, a fourth or subsequent offender may  
20 apply to a district court for removal of the ignition interlock  
21 device requirement provided in this section and for restoration  
22 of a driver's license. A district court may, for good cause  
23 shown, remove the ignition interlock device requirement and  
24 order restoration of the license; provided that the offender  
25 has not been subsequently convicted of driving a motor vehicle

.163164.3

1 while under the influence of intoxicating liquor or drugs.  
2 Good cause may include an alcohol screening and proof from the  
3 interlock vendor that the person has not had violations of the  
4 interlock device.

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

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

18 R. In addition to any other fine or fee that may be  
19 imposed pursuant to the conviction or other disposition of the  
20 offense under this section, the court may order the offender to  
21 pay the costs of any court-ordered screening and treatment  
22 programs.

23 S. With respect to this section and notwithstanding  
24 any provision of law to the contrary, if an offender's sentence  
25 was suspended or deferred in whole or in part and the offender

underscored material = new  
[bracketed material] = delete

1 violates any condition of probation, the court may impose any  
2 sentence that the court could have originally imposed and  
3 credit shall not be given for time served by the offender on  
4 probation.

5 T. As used in this section:

6 (1) "bodily injury" means an injury to a  
7 person that is not likely to cause death or great bodily harm  
8 to the person, but does cause painful temporary disfigurement  
9 or temporary loss or impairment of the functions of any member  
10 or organ of the person's body; and

11 (2) "commercial motor vehicle" means a motor  
12 vehicle or combination of motor vehicles used in commerce to  
13 transport passengers or property if the motor vehicle:

14 (a) has a gross combination weight  
15 rating of more than twenty-six thousand pounds inclusive of a  
16 towed unit with a gross vehicle weight rating of more than ten  
17 thousand pounds;

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

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

22 (d) is of any size and is used in the  
23 transportation of hazardous materials, which requires the motor  
24 vehicle to be placarded under applicable law [~~and~~

25 ~~(3) "conviction" means an adjudication of~~

.163164.3

underscored material = new  
[bracketed material] = delete

1 ~~guilt and does not include imposition of a sentence]."~~

2 Section 11. Section 66-8-135 NMSA 1978 (being Laws 1978,  
3 Chapter 35, Section 543, as amended) is amended to read:

4 "66-8-135. RECORD OF TRAFFIC CASES.--

5 A. Every trial court judge shall keep a record of  
6 every traffic complaint, uniform traffic citation and other  
7 form of traffic charge filed in the judge's court or its  
8 traffic violations bureau and every official action and  
9 disposition of the charge by that court.

10 B. Within ten days of the later of entry of  
11 judgment and sentence or failure to appear on a charge of  
12 violating the Motor Vehicle Code or other law or ordinance  
13 relating to motor vehicles or the final decision of any higher  
14 court that reviews the matter and from which no appeal or  
15 review is successfully taken, every trial court judge,  
16 including children's court judges, or the clerk of the court in  
17 which the entry of judgment and sentence or failure to appear  
18 occurred shall prepare and forward to the department an  
19 abstract of the record containing:

- 20 (1) the name and address of the defendant;  
21 (2) the specific section number and common  
22 name of the provision of the NMSA 1978 or local law, ordinance  
23 or regulation under which the defendant was tried;  
24 (3) the plea, finding of the court and  
25 disposition of the charge, including fine or jail sentence or

.163164.3

underscored material = new  
[bracketed material] = delete

1 both, forfeiture of bail or dismissal of the charge;

2 (4) an itemization of costs assessed to the  
3 defendant;

4 (5) the date of the hearing;

5 (6) the court's name and address;

6 (7) whether the defendant was a first or  
7 subsequent offender; and

8 (8) whether the defendant was represented by  
9 counsel or waived [~~his~~] the right to counsel and, if  
10 represented, the name and address of counsel.

11 C. The abstract of record prepared and forwarded  
12 under Subsection B of this section shall be certified as  
13 correct by the person required to prepare it. With the prior  
14 approval of the department, the information required by  
15 Subsection B of this section may be transmitted electronically  
16 to the department. Report need not be made of any disposition  
17 of a charge of illegal parking or standing of a vehicle except  
18 when the uniform traffic citation is used.

19 D. When the uniform traffic citation is used, the  
20 court shall provide the information required by Subsection B of  
21 this section in the manner prescribed by the department.

22 E. Every court of record shall also forward a like  
23 report to the department upon conviction of any person of any  
24 felony if a motor vehicle was used in the commission. With the  
25 prior approval of the department, the information required by

.163164.3



underscored material = new  
[bracketed material] = delete

1 this subsection may be submitted electronically to the  
2 department. The report shall be forwarded to the department  
3 within ten days of the final decision of the court or of any  
4 higher court that reviews the matter and from which the  
5 decision of no appeal or review is successfully taken.

6 F. The failure or refusal of any judicial officer  
7 to comply with this section is misconduct in office and grounds  
8 for removal.

9 G. The department shall keep records received on  
10 motorists licensed in this state at its main office. Records  
11 showing a record of conviction by a court of law shall be open  
12 to public inspection during business hours for [~~three years~~  
13 ~~from the date of their receipt, after which they shall be~~  
14 ~~destroyed by the department except for records of convictions~~  
15 ~~under Sections 66-8-101 through 66-8-112 NMSA 1978, which may~~  
16 ~~not be destroyed until~~] fifty-five years from the date of their  
17 receipt. Any record received on a motorist licensed in another  
18 state or country shall be forwarded to the licensing authority  
19 of that state or country."

20 Section 12. EMERGENCY.--It is necessary for the public  
21 peace, health and safety that this act take effect immediately.