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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 the division may, in its discretion, issue:

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

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

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

6 (b) who has successfully completed a
7 practice driving component;

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

10 (a) who has had a provisional license
11 for the twelve-month period immediately preceding the date of
12 the application for the driver's license;

13 (b) who has complied with restrictions
14 on that license;

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

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

23 (4) to any person thirteen years of age or
24 older who passes an examination prescribed by the division, a
25 license restricted to the operation of a motorcycle,

1 provided:

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

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

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

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13 denial, or to any person whose license has been revoked,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

16 C. who is an habitual user of narcotic drugs or
17 alcohol or an habitual user of any drug to a degree that
18 renders the person incapable of safely driving a motor
19 vehicle;

20 D. who is four or more times convicted of driving
21 a motor vehicle while under the influence of intoxicating
22 liquor or narcotic drug regardless of whether the convictions
23 are under the laws or ordinances of this state or any
24 municipality or county of this state or under the laws or
25 ordinances of any other state, the District of Columbia or

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

15 E. who was convicted on or after June 17, 2005 of
16 driving a motor vehicle while under the influence of
17 intoxicating liquor or drugs pursuant to the laws or
18 ordinances of any other state, the District of Columbia or
19 any governmental subdivision thereof, unless the person
20 obtains an ignition interlock license as provided in the
21 Ignition Interlock Licensing Act for a period of one year for
22 a first conviction; a period of two years for a second
23 conviction; a period of three years for a third conviction;
24 or the remainder of the offender's life for a fourth or
25 subsequent conviction, subject to a five-year review as

1 provided in Subsection D of this section. Upon presentation
2 of proof satisfactory to the division, the division may
3 credit time spent by a person operating a motor vehicle with
4 an ignition interlock or comparable device, as a condition of
5 the person's sentence for a conviction in another
6 jurisdiction pursuant to this subsection, against the
7 ignition interlock time requirements imposed by this
8 subsection. The division shall promulgate rules necessary
9 for granting credit to persons who participate in comparable
10 out-of-state programs following a conviction for driving a
11 motor vehicle while under the influence of intoxicating
12 liquor or drugs. The requirements of this subsection shall
13 not apply to a person who applies for a driver's license ten
14 years or more from the date of the person's last conviction,
15 except for a person who is subject to lifetime driver's
16 license revocation for a conviction in another jurisdiction.

17 F. who has previously been afflicted with or who
18 is suffering from any mental disability or disease that would
19 render the person unable to drive a motor vehicle with safety
20 upon the highways and who has not, at the time of
21 application, been restored to health;

22 G. who is required by the Motor Vehicle Code to
23 take an examination, unless the person has successfully
24 passed the examination;

25 H. who is required under the laws of this state to

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1 deposit proof of financial responsibility and who has not
2 deposited the proof;

3 I. when the director has good cause to believe
4 that the operation of a motor vehicle on the highways by the
5 person would be inimical to public safety or welfare; or

6 J. as a motorcycle driver who is less than
7 eighteen years of age and who has not presented a certificate
8 or other evidence of having successfully completed a
9 motorcycle driver education program licensed or offered in
10 conformance with rules of the bureau."

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

13 "66-5-502. DEFINITIONS.--As used in the Ignition
14 Interlock Licensing Act:

15 A. "denied" means having an instructor's permit,
16 driver's license or provisional license denied for driving
17 while under the influence of intoxicating liquor or drugs,
18 pursuant to the provisions of Subsection D or E of Section
19 66-5-5 NMSA 1978;

20 B. "ignition interlock device" means a device,
21 approved by the traffic safety bureau, that prevents the
22 operation of a motor vehicle by an intoxicated or impaired
23 person;

24 C. "ignition interlock license" means a driver's
25 license issued to a person by the division that allows that

1 person to operate a motor vehicle with an ignition interlock
2 device after that person's instructor's permit, driver's
3 license or provisional license has been revoked or denied.
4 The division shall clearly mark an ignition interlock license
5 to distinguish it from other driver's licenses; and

6 D. "revoked" means having an instructor's permit,
7 driver's license or provisional license revoked for driving
8 while under the influence of intoxicating liquor or drugs,
9 pursuant to the provisions of Section 66-8-102 or 66-8-111
10 NMSA 1978."

11 Section 3. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2007. _____

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