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HOUSE BILL 301

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Antonio Lujan

AN ACT

RELATING TO MOTOR VEHICLES; PROHIBITING THE OPERATION OF A
MOTOR VEHICLE WHILE READING, WRITING OR SENDING ELECTRONIC
MESSAGES; PROVIDING A PENALTY.

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

Section 1. A new section of the Motor Vehicle Code,
Section 66-7-358.1 NMSA 1978, is enacted to read:

"66-7-358.1. [NEW MATERIAL] TEXT-BASED COMMUNICATION
PROHIBITED.--

A. A person shall not operate a motor vehicle while
using an electronic wireless communications device to write,
send or read a text-based communication except:

- (1) to report illegal activity;
- (2) to summon medical or other emergency help;
- (3) to prevent injury to a person or property;

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1 (4) while the motor vehicle is lawfully
2 parked;

3 (5) in the operation of an authorized
4 emergency vehicle; or

5 (6) to relay information between a transit or
6 for-hire operator and that operator's dispatcher when the device
7 is permanently affixed to the vehicle.

8 B. For purposes of this section, a person is not
9 writing, reading or sending a text-based communication if the
10 person reads, selects or enters a telephone number or name in a
11 device for the purpose of making or receiving a telephone call.

12 C. The penalty for violation of the provisions of
13 this section is provided in Section 66-8-116 NMSA 1978."

14 Section 2. Section 66-8-116 NMSA 1978 (being Laws 1978,
15 Chapter 35, Section 524, as amended) is amended to read:

16 "66-8-116. PENALTY ASSESSMENT MISDEMEANORS--
17 DEFINITION--SCHEDULE OF ASSESSMENTS.--

18 A. As used in the Motor Vehicle Code, "penalty
19 assessment misdemeanor" means violation of any of the following
20 listed sections of the NMSA 1978 for which, except as provided
21 in Subsections D and E of this section, the listed penalty
22 assessment is established:

23	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY
24			ASSESSMENT

25 Permitting unlicensed

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1	minor to drive	66-5-40	\$ 10.00
2	Failure to obey sign	66-7-104	10.00
3	Failure to obey signal	66-7-105	10.00
4	Speeding	66-7-301	
5	(1) up to and including		
6	ten miles an hour		
7	over the speed limit		15.00
8	(2) from eleven up to		
9	and including fifteen		
10	miles an hour		
11	over the speed limit		30.00
12	(3) from sixteen up to		
13	and including twenty		
14	miles an hour over the		
15	speed limit		65.00
16	(4) from twenty-one up to		
17	and including twenty-five		
18	miles an hour		
19	over the speed limit		100.00
20	(5) from twenty-six up to		
21	and including thirty		
22	miles an hour over the		
23	speed limit		125.00
24	(6) from thirty-one up to		
25	and including thirty-five		

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1	miles an hour over the		
2	speed limit		150.00
3	(7) more than thirty-five		
4	miles an hour over the		
5	speed limit		200.00
6	Unfastened safety belt	66-7-372	25.00
7	Child not in restraint device		
8	or seat belt	66-7-369	25.00
9	Minimum speed	66-7-305	10.00
10	Speeding	66-7-306	15.00
11	Improper starting	66-7-324	10.00
12	Improper backing	66-7-354	10.00
13	Improper lane	66-7-308	10.00
14	Improper lane	66-7-313	10.00
15	Improper lane	66-7-316	10.00
16	Improper lane	66-7-317	10.00
17	Improper lane	66-7-319	10.00
18	Improper passing	66-7-309 through 66-7-312	10.00
19	Improper passing	66-7-315	10.00
20	Controlled access		
21	violation	66-7-320	10.00
22	Controlled access		
23	violation	66-7-321	10.00
24	Improper turning	66-7-322	10.00
25	Improper turning	66-7-323	10.00

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1	Improper turning	66-7-325	10.00
2	Following too closely	66-7-318	10.00
3	Failure to yield	66-7-328 through 66-7-331	10.00
4	Failure to yield	66-7-332	50.00
5	Failure to yield	66-7-332.1	25.00
6	Pedestrian violation	66-7-333	10.00
7	Pedestrian violation	66-7-340	10.00
8	Failure to stop	66-7-342 and 66-7-344	
9		through 66-7-346	10.00
10	Railroad-highway grade		
11	crossing violation	66-7-341 and 66-7-343	10.00
12	Passing school bus	66-7-347	100.00
13	Failure to signal	66-7-325 through 66-7-327	10.00
14	Failure to secure load	66-7-407	100.00
15	Operation without oversize-		
16	overweight permit	66-7-413	50.00
17	Improper equipment	66-3-801	10.00
18	Improper equipment	66-3-901	20.00
19	Improper emergency		
20	signal	66-3-853 through 66-3-857	10.00
21	Operation interference	66-7-357	5.00
22	Littering	66-7-364	300.00
23	Improper parking	66-7-349 through 66-7-352	
24		and 66-7-353	5.00
25	Improper parking	66-3-852	5.00

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1	Failure to dim lights	66-3-831	10.00
2	Riding in or towing		
3	occupied house trailer	66-7-366	5.00
4	Improper opening of doors	66-7-367	5.00
5	No slow-moving vehicle		
6	emblem or flashing		
7	amber light	66-3-887	5.00
8	Open container - first		
9	violation	66-8-138	25.00
10	<u>Prohibited text-based</u>		
11	<u>communication</u>	<u>66-7-358.1</u>	<u>100.00.</u>

12 B. The term "penalty assessment misdemeanor" does not
13 include a violation that has caused or contributed to the cause
14 of an accident resulting in injury or death to a person.

15 C. When an alleged violator of a penalty assessment
16 misdemeanor elects to accept a notice to appear in lieu of a
17 notice of penalty assessment, a fine imposed upon later
18 conviction shall not exceed the penalty assessment established
19 for the particular penalty assessment misdemeanor and probation
20 imposed upon a suspended or deferred sentence shall not exceed
21 ninety days.

22 D. The penalty assessment for speeding in violation
23 of Paragraph (4) of Subsection A of Section 66-7-301 NMSA 1978
24 is twice the penalty assessment established in Subsection A of
25 this section for the equivalent miles per hour over the speed

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1 limit.

2 E. Upon a second conviction for operation without a
3 permit for excessive size or weight pursuant to Section
4 66-7-413 NMSA 1978, the penalty assessment shall be two hundred
5 fifty dollars (\$250). Upon a third or subsequent conviction,
6 the penalty assessment shall be five hundred dollars (\$500)."