

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 197

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO MOTOR VEHICLES; PROHIBITING TEXTING WHILE DRIVING;
PROVIDING EXCEPTIONS; ESTABLISHING A PENALTY ASSESSMENT.

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

SECTION 1. A new Section 66-7-375 NMSA 1978 is enacted to
read:

"66-7-375. [NEW MATERIAL] TEXTING WHILE DRIVING.--

A. A person shall not read, view, type or send a
text message on a mobile communication device while driving a
motor vehicle, except:

- (1) to summon medical or other emergency help;
- (2) to report a driver suspected of being
under the influence of intoxicating liquor or drugs; or
- (3) in the operation of an authorized law
enforcement or emergency vehicle as required by the driver's

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1 official duties.

2 B. As used in this section:

3 (1) "driving" means being in actual physical
4 control of a motor vehicle on a highway or street, but
5 "driving" does not include being safely stopped;

6 (2) "mobile communication device" means a
7 wireless communication device that is designed to receive and
8 transmit text or image messages, but "mobile communication
9 device" does not include a global positioning or navigation
10 system or a device that is physically or electronically
11 integrated into the motor vehicle; and

12 (3) "text message" means a digital
13 communication transmitted or intended to be transmitted to a
14 communication device and includes electronic mail, an instant
15 message, a text or image communication or any command or
16 request to an internet site."

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

19 "66-8-116. PENALTY ASSESSMENT MISDEMEANORS--
20 DEFINITION--SCHEDULE OF ASSESSMENTS.--

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

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

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1	speed limit		125.00
2	(6) from thirty-one up to		
3	and including thirty-five		
4	miles an hour over the		
5	speed limit		150.00
6	(7) more than thirty-five		
7	miles an hour over the		
8	speed limit		200.00
9	Unfastened safety belt	66-7-372	25.00
10	Child not in restraint device		
11	or seat belt	66-7-369	25.00
12	Minimum speed	66-7-305	10.00
13	Speeding	66-7-306	15.00
14	Improper starting	66-7-324	10.00
15	Improper backing	66-7-354	10.00
16	Improper lane	66-7-308	10.00
17	Improper lane	66-7-313	10.00
18	Improper lane	66-7-316	10.00
19	Improper lane	66-7-317	10.00
20	Improper lane	66-7-319	10.00
21	Improper passing	66-7-309 through 66-7-312	10.00
22	Improper passing	66-7-315	10.00
23	Controlled access		
24	violation	66-7-320	10.00
25	Controlled access		

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1	violation	66-7-321	10.00
2	Improper turning	66-7-322	10.00
3	Improper turning	66-7-323	10.00
4	Improper turning	66-7-325	10.00
5	Following too closely	66-7-318	10.00
6	Failure to yield	66-7-328 through 66-7-331	10.00
7	Failure to yield	66-7-332	50.00
8	Failure to yield	66-7-332.1	25.00
9	Pedestrian violation	66-7-333	10.00
10	Pedestrian violation	66-7-340	10.00
11	Failure to stop	66-7-342 and 66-7-344	
12		through 66-7-346	10.00
13	Railroad-highway grade		
14	crossing violation	66-7-341 and 66-7-343	150.00
15	Passing school bus	66-7-347	100.00
16	Failure to signal	66-7-325 through 66-7-327	10.00
17	Failure to secure load	66-7-407	100.00
18	Operation without oversize-		
19	overweight permit	66-7-413	50.00
20	Improper equipment	66-3-801	10.00
21	Improper equipment	66-3-901	20.00
22	Improper emergency		
23	signal	66-3-853 through 66-3-857	10.00
24	Operation interference	66-7-357	5.00
25	Littering	66-7-364	300.00

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1	Improper parking	66-7-349 through 66-7-352	
2		and 66-7-353	5.00
3	Improper parking	66-3-852	5.00
4	Failure to dim lights	66-3-831	10.00
5	Riding in or towing		
6	occupied house trailer	66-7-366	5.00
7	Improper opening of doors	66-7-367	5.00
8	No slow-moving vehicle		
9	emblem or flashing		
10	amber light	66-3-887	5.00
11	Open container - first		
12	violation	66-8-138	25.00
13	<u>Texting while driving</u>	<u>66-7-375</u>	<u>25.00.</u>

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

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

24 D. The penalty assessment for speeding in violation
25 of Paragraph (4) of Subsection A of Section 66-7-301 NMSA 1978

1 is twice the penalty assessment established in Subsection A of
2 this section for the equivalent miles per hour over the speed
3 limit.

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

10 SECTION 3. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2011.

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