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HOUSE BILL 357

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

INTRODUCED BY

Dennis J. Roch

AN ACT

RELATING TO CRIMINAL LAW; CREATING THE CRIMES OF HOMICIDE BY BOAT AND GREAT BODILY HARM BY BOAT; INCREASING THE BASIC SENTENCE IN CERTAIN CIRCUMSTANCES; PROVIDING THAT PRIOR CONVICTIONS OF BOATING WHILE INTOXICATED MAY INCREASE THE BASIC SENTENCE FOR HOMICIDE BY VEHICLE OR GREAT BODILY HARM BY VEHICLE; PROVIDING PENALTIES.

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

SECTION 1. Section 66-8-101 NMSA 1978 (being Laws 1978, Chapter 35, Section 509, as amended) is amended to read:

"66-8-101. HOMICIDE BY VEHICLE--GREAT BODILY HARM BY VEHICLE.--

A. Homicide by vehicle is the killing of a human being in the unlawful operation of a motor vehicle.

B. Great bodily harm by vehicle is the injuring of

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1 a human being, to the extent defined in Section 30-1-12 NMSA
2 1978, in the unlawful operation of a motor vehicle.

3 C. A person who commits homicide by vehicle or
4 great bodily harm by vehicle while under the influence of
5 intoxicating liquor or while under the influence of any drug or
6 while violating Section 66-8-113 NMSA 1978 is guilty of a third
7 degree felony and shall be sentenced pursuant to the provisions
8 of Section 31-18-15 NMSA 1978, provided that violation of
9 speeding laws as set forth in the Motor Vehicle Code shall not
10 per se be a basis for violation of Section 66-8-113 NMSA 1978.

11 D. A person who commits homicide by vehicle or
12 great bodily harm by vehicle while under the influence of
13 intoxicating liquor or while under the influence of any drug,
14 as provided in Subsection C of this section, and who has
15 incurred a prior DWI conviction within ten years of the
16 occurrence for which [~~he~~] the person is being sentenced under
17 this section shall have [~~his~~] the basic sentence increased by
18 four years for each prior DWI conviction.

19 E. For the purposes of this section, "prior DWI
20 conviction" means:

21 (1) a prior conviction under Section 66-8-102
22 NMSA 1978; [~~or~~]

23 (2) a prior conviction under Section 66-13-3
24 NMSA 1978; or

25 [~~(2)~~] (3) a prior conviction in New Mexico or

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1 any other jurisdiction, territory or possession of the United
2 States, including a tribal jurisdiction, when the criminal act
3 is driving a vehicle or operating a motorboat under the
4 influence of alcohol or drugs.

5 F. A person who willfully operates a motor vehicle
6 in violation of Subsection C of Section 30-22-1 NMSA 1978 and
7 directly or indirectly causes the death of or great bodily harm
8 to a human being is guilty of a third degree felony and shall
9 be sentenced pursuant to the provisions of Section 31-18-15
10 NMSA 1978."

11 SECTION 2. A new section of the Boating While Intoxicated
12 Act is enacted to read:

13 "[NEW MATERIAL] HOMICIDE BY BOAT--GREAT BODILY HARM BY
14 BOAT.--

15 A. Homicide by boat is the killing of a human being
16 in the unlawful operation of a motorboat.

17 B. Great bodily harm by boat is the injuring of a
18 human being, to the extent defined in Section 30-1-12 NMSA
19 1978, in the unlawful operation of a motorboat.

20 C. A person who commits homicide by boat or great
21 bodily harm by boat while under the influence of intoxicating
22 liquor or while under the influence of any drug is guilty of a
23 third degree felony and shall be sentenced pursuant to the
24 provisions of Section 31-18-15 NMSA 1978.

25 D. A person who commits homicide by boat or great

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1 bodily harm by boat while under the influence of intoxicating
2 liquor or while under the influence of any drug, as provided in
3 Subsection C of this section, and who has incurred a prior DWI
4 conviction within ten years of the occurrence for which the
5 person is being sentenced under this section shall have the
6 basic sentence increased by four years for each prior DWI
7 conviction.

8 E. For the purposes of this section, "prior DWI
9 conviction" means:

10 (1) a prior conviction under Section 66-8-102
11 NMSA 1978;

12 (2) a prior conviction under Section 66-13-3
13 NMSA 1978; or

14 (3) a prior conviction in New Mexico or any
15 other jurisdiction, territory or possession of the United
16 States, including a tribal jurisdiction, when the criminal act
17 is driving a vehicle or operating a motorboat under the
18 influence of alcohol or drugs."

19 **SECTION 3. EFFECTIVE DATE.**--The effective date of the
20 provisions of this act is July 1, 2011.