

HOUSE BILL 216

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Al Park

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; PROVIDING FOR ADMISSION INTO EVIDENCE OF REPORTS OF TESTS ADMINISTERED PURSUANT TO THE IMPLIED CONSENT ACT WITHOUT TESTIMONY OF THE ANALYST; PROVIDING A PROCEDURE FOR CRIMINAL TRIALS; PROVIDING FOR TESTIMONY BY INTERACTIVE VIDEO.

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

SECTION 1. A new section of the Implied Consent Act is enacted to read:

"~~[NEW MATERIAL]~~ CERTIFIED REPORTS OF TESTS--ADMISSION INTO EVIDENCE--PROCEDURE--VIDEO APPEARANCE.--

A. Except as provided in Subsection B of this section, a certified report of the findings and analysis of a test administered pursuant to the Implied Consent Act shall be received into evidence in any court proceeding with the same

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1 force and effect as if the individual who conducted the
2 analysis had testified in person.

3 B. Before a certified report is used in lieu of
4 analyst testimony in a criminal trial, a copy of the report
5 shall be served upon the opposing party at least twenty-one
6 days prior to trial with a notice that the report is proposed
7 to be introduced as an exhibit at trial without an analyst's
8 testimony. If the opposing party objects to the absence of an
9 analyst's testimony, the opposing party may serve a written
10 objection, within seven days of receipt of the report, on both
11 the laboratory that produced the report and the offering party.
12 If an objection is timely served, the report shall not be
13 introduced without analyst testimony. If an objection is not
14 timely served or if no objection is made, the report may be
15 received into evidence at trial without analyst testimony.
16 Certified proof of any service required by this subsection
17 shall be filed with the court. In the event of a continuance,
18 a notice or objection that has been timely provided shall be
19 deemed effective and binding upon the parties for any
20 subsequent trial date.

21 C. If a party subpoenas an analyst to testify at a
22 court proceeding for any purpose, the analyst may appear by
23 interactive video that shall be recorded. An interactive video
24 appearance shall provide a full and meaningful opportunity to
25 question and cross-examine the witness in plain sight and clear

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1 hearing of the judge, jury, all parties and counsel, with the
2 witness likewise able to clearly see and hear the participants
3 in the proceeding."

4 SECTION 2. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2012.