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SENATE BILL 178

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

INTRODUCED BY

Vernon D. Asbill

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; PROVIDING THAT A PERSON CONVICTED OF DRIVING UNDER THE INFLUENCE IN ANOTHER JURISDICTION IS NOT REQUIRED TO OBTAIN AN IGNITION INTERLOCK LICENSE AND MAY BE ISSUED A DRIVER'S LICENSE IN NEW MEXICO IF THE PERSON HAS A VALID, UNRESTRICTED DRIVER'S LICENSE REINSTATED IN ANOTHER JURISDICTION.

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) 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:

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

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

7 (a) who has completed a driver education
8 course approved by the bureau or offered by a public school
9 that includes a DWI education and prevention component and has
10 had an instruction permit for at least six months as provided
11 in Section 66-5-8 NMSA 1978; and

12 (b) who has successfully completed a
13 practice driving component;

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

16 (a) who has had a provisional license
17 for at least a twelve-month period immediately preceding the
18 date of the application for the driver's license as provided in
19 Section 66-5-9 NMSA 1978;

20 (b) who has complied with restrictions
21 on that license; and

22 (c) who has not been adjudicated for an
23 offense involving the use of alcohol or drugs during the
24 twelve-month period immediately preceding the application for
25 the driver's license and who has no pending adjudications

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1 alleging an offense involving the use of alcohol or drugs at
2 the time of application; and

3 (4) to a person thirteen years of age or older
4 who passes an examination prescribed by the division, a license
5 restricted to the operation of a motorcycle, provided:

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

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

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

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

20 C. who is an habitual user of narcotic drugs or
21 alcohol or an habitual user of any drug to a degree that
22 renders the person incapable of safely driving a motor vehicle;

23 D. who is four or more times convicted of driving a
24 motor vehicle while under the influence of intoxicating liquor
25 or narcotic drug regardless of whether the convictions are

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

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

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1 of the offender's life for a fourth or subsequent conviction,
2 subject to a five-year review as provided in Subsection D of
3 this section. Upon presentation of proof satisfactory to the
4 division, the division may credit time spent by a person
5 operating a motor vehicle with an ignition interlock or
6 comparable device, as a condition of the person's sentence for
7 a conviction in another jurisdiction [~~pursuant to this~~
8 ~~subsection~~], against the ignition interlock time requirements
9 imposed by this subsection. The division shall promulgate
10 rules necessary for granting credit to persons who participate
11 in comparable out-of-state programs following a conviction for
12 driving a motor vehicle while under the influence of
13 intoxicating liquor or drugs. The requirements of this
14 subsection shall not apply to a person who:

15 (1) has a valid driver's license reinstated in
16 another jurisdiction and the out-of-state license is not
17 provisional or otherwise limited; or

18 (2) applies for a driver's license ten years
19 or more from the date of the person's last conviction, except
20 for a person who is subject to lifetime driver's license
21 revocation for a conviction in another jurisdiction pursuant to
22 this subsection;

23 F. who has previously been afflicted with or who is
24 suffering from any mental disability or disease that would
25 render the person unable to drive a motor vehicle with safety

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1 upon the highways and who has not, at the time of application,
2 been restored to health;

3 G. who is required by the Motor Vehicle Code to
4 take an examination, unless the person has successfully passed
5 the examination;

6 H. who is required under the laws of this state to
7 deposit proof of financial responsibility and who has not
8 deposited the proof;

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

12 J. as a motorcycle driver who is less than eighteen
13 years of age and who has not presented a certificate or other
14 evidence of having successfully completed a motorcycle driver
15 education program licensed or offered in conformance with rules
16 of the bureau."

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