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HOUSE BILL 43

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

James E. Smith

AN ACT

RELATING TO MOTOR VEHICLES; PROHIBITING MESSAGING 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 66-7-374 NMSA 1978 is enacted to
read:

"66-7-374. [NEW MATERIAL] MESSAGING WHILE DRIVING.--

A. A person shall not read, view, type or send a
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

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1 enforcement or emergency vehicle as required by the driver's
2 official duties.

3 B. As used in this section:

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

7 (2) "message" means a digital communication
8 transmitted or intended to be transmitted to a communication
9 device and includes electronic mail, an instant message, a text
10 or image communication or any command or request to an internet
11 site; and

12 (3) "mobile communication device" means a
13 wireless communication device that is designed to receive and
14 transmit text or image messages, but "mobile communication
15 device" does not include a global positioning or navigation
16 system or a device that is physically or electronically
17 integrated into the motor vehicle."

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

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

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

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1 assessment is established:

2 COMMON NAME OF OFFENSE SECTION VIOLATED PENALTY
3 ASSESSMENT

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

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

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1	Controlled access		
2	violation	66-7-321	10.00
3	Improper turning	66-7-322	10.00
4	Improper turning	66-7-323	10.00
5	Improper turning	66-7-325	10.00
6	Following too closely	66-7-318	10.00
7	Failure to yield	66-7-328 through 66-7-331	10.00
8	Failure to yield	66-7-332	50.00
9	Failure to yield	66-7-332.1	25.00
10	Pedestrian violation	66-7-333	10.00
11	Pedestrian violation	66-7-340	10.00
12	Failure to stop	66-7-342 and 66-7-344	
13		through 66-7-346	10.00
14	Railroad-highway grade		
15	crossing violation	66-7-341 and 66-7-343	150.00
16	Passing school bus	66-7-347	100.00
17	Failure to signal	66-7-325 through 66-7-327	10.00
18	Failure to secure load	66-7-407	100.00
19	Operation without oversize-		
20	overweight permit	66-7-413	50.00
21	Transport of reducible		
22	load with special		
23	permit more than six miles		
24	from a border crossing	66-7-413	100.00
25	Improper equipment	66-3-801	10.00

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1	Improper equipment	66-3-901	20.00
2	Improper emergency		
3	signal	66-3-853 through 66-3-857	10.00
4	Operation interference	66-7-357	5.00
5	Littering	66-7-364	300.00
6	Improper parking	66-7-349 through 66-7-352	
7		and 66-7-353	5.00
8	Improper parking	66-3-852	5.00
9	Failure to dim lights	66-3-831	10.00
10	Riding in or towing		
11	occupied house trailer	66-7-366	5.00
12	Improper opening of doors	66-7-367	5.00
13	No slow-moving vehicle		
14	emblem or flashing		
15	amber light	66-3-887	5.00
16	Open container - first		
17	violation	66-8-138	25.00
18	<u>Messaging while driving</u>	<u>66-7-374</u>	<u>100.00.</u>

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

22 C. When an alleged violator of a penalty assessment
23 misdemeanor elects to accept a notice to appear in lieu of a
24 notice of penalty assessment, a fine imposed upon later
25 conviction shall not exceed the penalty assessment established

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1 for the particular penalty assessment misdemeanor and probation
2 imposed upon a suspended or deferred sentence shall not exceed
3 ninety days.

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

9 E. Upon a second conviction for operation without a
10 permit for excessive size or weight pursuant to Section
11 66-7-413 NMSA 1978, the penalty assessment shall be two hundred
12 fifty dollars (\$250). Upon a third or subsequent conviction,
13 the penalty assessment shall be five hundred dollars (\$500).

14 F. Upon a second conviction for transport of a
15 reducible load with a permit for excessive size or weight
16 pursuant to Subsection N of Section 66-7-413 NMSA 1978 more
17 than six miles from a port-of-entry facility on the border with
18 Mexico, the penalty assessment shall be five hundred dollars
19 (\$500). Upon a third or subsequent conviction, the penalty
20 assessment shall be one thousand dollars (\$1,000)."

21 SECTION 3. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2013.