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HOUSE BILL 97

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

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. Section 66-13-1 NMSA 1978 (being Laws 2003,  
12 Chapter 241, Section 1) is amended to read:

13 "66-13-1. SHORT TITLE.--~~[Sections 1 through 13 of this~~  
14 ~~act]~~ Chapter 66, Article 13 NMSA 1978 may be cited as the  
15 "Boating While Intoxicated Act"."

16 SECTION 3. A new section of the Boating While Intoxicated  
17 Act is enacted to read:

18 "[NEW MATERIAL] HOMICIDE BY BOAT--GREAT BODILY HARM BY  
19 BOAT.--

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

22 B. Great bodily harm by boat is the injuring of a  
23 human being, to the extent defined in Section 30-1-12 NMSA  
24 1978, in the unlawful operation of a motorboat.

25 C. 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 is guilty of a  
3     third degree felony and shall be sentenced pursuant to the  
4     provisions of Section 31-18-15 NMSA 1978.

5             D. A person who commits homicide by boat or great  
6     bodily harm by boat while under the influence of intoxicating  
7     liquor or while under the influence of any drug, as provided in  
8     Subsection C of this section, and who has incurred a prior DWI  
9     conviction within ten years of the occurrence for which the  
10    person is being sentenced under this section shall have the  
11    basic sentence increased by four years for each prior DWI  
12    conviction.

13            E. For the purposes of this section, "prior DWI  
14    conviction" means:

15                    (1) a prior conviction under Section 66-8-102  
16    NMSA 1978;

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

19                    (3) a prior conviction in New Mexico or any  
20    other jurisdiction, territory or possession of the United  
21    States, including a tribal jurisdiction, when the criminal act  
22    is driving a vehicle or operating a motorboat under the  
23    influence of alcohol or drugs."

24            **SECTION 4. EFFECTIVE DATE.**--The effective date of the  
25    provisions of this act is July 1, 2013.

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