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HOUSE BILL 560

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

INTRODUCED BY

David M. Gallegos

AN ACT

RELATING TO MOTOR VEHICLES; PROHIBITING MESSAGING WHILE DRIVING  
A COMMERCIAL MOTOR VEHICLE; PROVIDING EXCEPTIONS; CHANGING  
DRIVER'S LICENSE TESTING REQUIREMENTS; ESTABLISHING PENALTIES;  
PROVIDING FOR DISQUALIFICATION.

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

SECTION 1. A new section of the Motor Vehicle Code is  
enacted to read:

"[NEW MATERIAL] MESSAGING WHILE DRIVING A COMMERCIAL MOTOR  
VEHICLE.--

A. A person shall not read, view, manually type or  
manually send a message on a personal wireless communications  
device while driving a commercial motor vehicle, except:

- (1) to summon emergency help; or
- (2) in the operation of an authorized law

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

3 B. Messaging while driving a commercial motor  
4 vehicle shall be a primary offense.

5 C. As used in this section:

6 (1) "driving" means operating a commercial  
7 motor vehicle on a public road, including while the vehicle is  
8 temporarily stationary because of traffic, a traffic light or  
9 stop sign or otherwise; "driving" does not include operating a  
10 commercial motor vehicle when the vehicle has been pulled over  
11 to the side of, or off, an active roadway and has stopped in a  
12 location where it can safely remain stationary;

13 (2) "message" means a digital communication  
14 transmitted or intended to be transmitted to a personal  
15 wireless communications device and includes electronic mail, an  
16 instant message, a text or image communication or any command  
17 or request to an internet site or any other form of electronic  
18 data retrieval or electronic data communication if the  
19 transmission, command or request is performed manually; a  
20 voice-activated command is not considered a message for the  
21 purposes of this section;

22 (3) "personal wireless communications device"  
23 means a device through which personal wireless services, as  
24 defined in Section 332(c)(7)(C)(I) of the federal  
25 Communications Act of 1934, 47 U.S.C. 332(c)(7)(C)(I), are

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1 transmitted; "personal wireless communications device" does not  
2 include a global navigation satellite system receiver used for  
3 positioning, emergency notification or navigation purposes; and

4 (4) "primary offense" means an offense for  
5 which a law enforcement officer may stop a vehicle solely for  
6 the purpose of issuing a citation in the absence of another  
7 offense."

8 SECTION 2. A new section of the Motor Vehicle Code is  
9 enacted to read:

10 "[NEW MATERIAL] PENALTY--DISQUALIFICATION.--

11 A. A driver who is convicted of messaging while  
12 driving a commercial motor vehicle shall be subject to a civil  
13 penalty of twenty-five dollars (\$25.00). Upon a second or  
14 subsequent conviction for messaging while driving a commercial  
15 vehicle, the penalty assessment shall be fifty dollars  
16 (\$50.00). A violation that occurs within five years of the  
17 previous offense is considered a repeat offense.

18 B. The department shall disqualify a person who  
19 holds a commercial driver's license or who is required to hold  
20 a commercial driver's license who is convicted of messaging  
21 while driving a commercial motor vehicle from driving a  
22 commercial motor vehicle for a period of not less than sixty  
23 days. The department shall disqualify a person who holds a  
24 commercial driver's license or who is required to hold a  
25 commercial driver's license who is convicted of messaging while

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1 driving a commercial motor vehicle for a second or subsequent  
2 time from driving a commercial motor vehicle for a period of  
3 not less than one hundred twenty days. A violation that occurs  
4 within five years of the previous offense is considered a  
5 repeat offense."

6 SECTION 3. Section 66-5-60 NMSA 1978 (being Laws 1989,  
7 Chapter 14, Section 9, as amended) is amended to read:

8 "66-5-60. COMMERCIAL DRIVER'S LICENSE--QUALIFICATIONS--  
9 STANDARDS.--

10 A. The division shall not issue a commercial  
11 driver's license to a person unless that person can establish  
12 that New Mexico is the person's state of domicile and has  
13 passed a knowledge and skills test for driving a commercial  
14 motor vehicle and, for related endorsements, has passed a  
15 medical fitness test and has satisfied any other requirements  
16 of the New Mexico Commercial Driver's License Act. The skills  
17 test for driving a commercial motor vehicle shall test a  
18 person's knowledge of and ability to handle distracted driving  
19 circumstances.

20 B. The division may authorize a person, including  
21 an agency of this or another state, an employer, a private  
22 driver-training facility or other private institution or a  
23 department, agency or instrumentality of local government to  
24 administer the skills test specified by this section.

25 C. A commercial driver's license applicant shall

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1 not take a test specified in this section more than three times  
2 within one year.

3 D. If the department determines that a commercial  
4 driver's license applicant has committed an offense in taking a  
5 test specified in this section, the division shall not issue a  
6 commercial driver's license to that applicant within one year  
7 of the department's determination."

8 SECTION 4. EFFECTIVE DATE.--The effective date of the  
9 provisions of this act is July 1, 2013.