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SENATE BILL 19

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Peter Wirth and James E. Smith

AN ACT

RELATING TO MOTOR VEHICLES; PROHIBITING TEXTING WHILE DRIVING;
PROVIDING EXCEPTIONS; PROVIDING PENALTIES.

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] TEXTING WHILE DRIVING.--

A. A person shall not read or view a text message
or type on a handheld mobile communication device for any
purpose while driving a motor vehicle, except to summon medical
or other emergency help.

B. As used in this section:

(1) "driving" means being in actual physical
control of a motor vehicle on a highway or street and includes
being temporarily stopped because of traffic or at a traffic

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1 light, but "driving" excludes operating a motor vehicle when
2 the vehicle has pulled over to the side of or off of an active
3 roadway and has stopped at a location in which it can safely
4 remain stationary;

5 (2) "handheld mobile communication device"
6 means a wireless communication device that is designed to
7 receive and transmit text or image messages, but "handheld
8 mobile communication device" excludes global positioning or
9 navigation systems, devices that are physically or
10 electronically integrated into a motor vehicle and voice-
11 operated or hands-free devices that allow the user to write,
12 send or read a text message without the use of a hand except to
13 activate, deactivate or initiate a feature or function; and

14 (3) "text message" means a digital
15 communication transmitted or intended to be transmitted between
16 communication devices and includes electronic mail, an instant
17 message, a text or image communication and a command or request
18 to an internet site; but "text message" excludes communications
19 through the use of a computer-aided dispatch service by law
20 enforcement or rescue personnel."

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

23 "66-8-116. PENALTY ASSESSMENT MISDEMEANORS--DEFINITION--
24 SCHEDULE OF ASSESSMENTS.--

25 A. As used in the Motor Vehicle Code, "penalty

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1 assessment misdemeanor" means violation of any of the following
2 listed sections of the NMSA 1978 for which, except as provided
3 in Subsections D and E of this section, the listed penalty
4 assessment is established:

5	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY
6			ASSESSMENT
7	Improper display of		
8	registration plate	66-3-18	\$ 25.00
9	Failure to notify of		
10	change of name or address	66-3-23	25.00
11	Lost or damaged registration,		
12	plate or title	66-3-24	20.00
13	Permitting unauthorized		
14	minor to drive	66-5-40	50.00
15	Permitting unauthorized		
16	person to drive	66-5-41	25.00
17	Failure to obey sign	66-7-104	10.00
18	Failure to obey signal	66-7-105	10.00
19	Speeding	66-7-301	
20	(1) up to and including		
21	ten miles an hour		
22	over the speed limit		15.00
23	(2) from eleven up to		
24	and including fifteen		
25	miles an hour		

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1	over the speed limit		30.00
2	(3) from sixteen up to		
3	and including twenty		
4	miles an hour over the		
5	speed limit		65.00
6	(4) from twenty-one up to		
7	and including twenty-five		
8	miles an hour		
9	over the speed limit		100.00
10	(5) from twenty-six up to		
11	and including thirty		
12	miles an hour over the		
13	speed limit		125.00
14	(6) from thirty-one up to		
15	and including thirty-five		
16	miles an hour over the		
17	speed limit		150.00
18	(7) more than thirty-five		
19	miles an hour over the		
20	speed limit		200.00
21	Unfastened safety belt	66-7-372	25.00
22	Child not in restraint device		
23	or seat belt	66-7-369	25.00
24	Minimum speed	66-7-305	10.00
25	Speeding	66-7-306	15.00

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1	Improper starting	66-7-324	10.00
2	Improper backing	66-7-354	10.00
3	Improper lane	66-7-308	10.00
4	Improper lane	66-7-313	10.00
5	Improper lane	66-7-316	10.00
6	Improper lane	66-7-317	10.00
7	Improper lane	66-7-319	10.00
8	Improper passing	66-7-309 through 66-7-312	10.00
9	Improper passing	66-7-315	10.00
10	Controlled access		
11	violation	66-7-320	10.00
12	Controlled access		
13	violation	66-7-321	10.00
14	Improper turning	66-7-322	10.00
15	Improper turning	66-7-323	10.00
16	Improper turning	66-7-325	10.00
17	Following too closely	66-7-318	10.00
18	Failure to yield	66-7-328 through 66-7-331	10.00
19	Failure to yield	66-7-332	50.00
20	Failure to yield	66-7-332.1	25.00
21	Pedestrian violation	66-7-333	10.00
22	Pedestrian violation	66-7-340	10.00
23	Failure to stop	66-7-342 and 66-7-344	
24		through 66-7-346	10.00
25	Railroad-highway grade		

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1	crossing violation	66-7-341 and 66-7-343	150.00
2	Passing school bus	66-7-347	100.00
3	Failure to signal	66-7-325 through 66-7-327	10.00
4	Failure to secure load	66-7-407	100.00
5	Operation without oversize-		
6	overweight permit	66-7-413	50.00
7	Transport of reducible		
8	load with special		
9	permit more than six miles		
10	from a border crossing	66-7-413	100.00
11	Improper equipment	66-3-801	
12		through 66-3-851	25.00
13	Improper equipment	66-3-901	20.00
14	Improper emergency		
15	signal	66-3-853 through 66-3-857	10.00
16	Minor on motorcycle		
17	without helmet	66-7-356	300.00
18	Operation interference	66-7-357	50.00
19	Littering	66-7-364	300.00
20	Improper parking	66-7-349 through 66-7-352	
21		and 66-7-353	5.00
22	Improper parking	66-3-852	5.00
23	Failure to dim lights	66-3-831	10.00
24	Riding in or towing		
25	occupied house trailer	66-7-366	5.00

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1	Improper opening of doors	66-7-367	5.00
2	No slow-moving vehicle		
3	emblem or flashing		
4	amber light	66-3-887	5.00
5	Open container - first		
6	violation	66-8-138	25.00
7	<u>Texting while driving -</u>	<u>Section 1 of this</u>	
8	<u>first violation</u>	<u>2014 act</u>	<u>25.00</u>
9	<u>Texting while driving -</u>	<u>Section 1 of this</u>	
10	<u>second violation</u>	<u>2014 act</u>	<u>50.00.</u>

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

14 C. When an alleged violator of a penalty assessment
15 misdemeanor elects to accept a notice to appear in lieu of a
16 notice of penalty assessment, a fine imposed upon later
17 conviction shall not exceed the penalty assessment established
18 for the particular penalty assessment misdemeanor and probation
19 imposed upon a suspended or deferred sentence shall not exceed
20 ninety days.

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

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1 E. Upon a second conviction for operation without a
2 permit for excessive size or weight pursuant to Section
3 66-7-413 NMSA 1978, the penalty assessment shall be two hundred
4 fifty dollars (\$250). Upon a third or subsequent conviction,
5 the penalty assessment shall be five hundred dollars (\$500).

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

13 SECTION 3. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2014.