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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:

"TEXTING WHILE DRIVING.--

A. A person shall not read or view a text message  
or manually type on a handheld mobile communication device  
for any purpose while driving a motor vehicle, except to  
summon medical or other emergency help or unless that device  
is an amateur radio and the driver holds a valid amateur  
radio operator license issued by the federal communications  
commission.

B. The provisions of this section shall not be  
construed as authorizing the seizure or forfeiture of a  
handheld mobile communication device. Unless otherwise  
provided by law, the handheld mobile communication device  
used in the violation of the provisions of this section is  
not subject to search by a law enforcement officer during a  
traffic stop made pursuant to the provisions of this section.

C. As used in this section:

(1) "driving" means being in actual physical  
control of a motor vehicle on a highway or street and

1 includes being temporarily stopped because of traffic, a  
2 traffic light or stop sign or otherwise, but "driving"  
3 excludes operating a motor vehicle when the vehicle has  
4 pulled over to the side of or off of an active roadway and  
5 has stopped at a location in which it can safely remain  
6 stationary;

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

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

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

1 "66-8-116. PENALTY ASSESSMENT MISDEMEANORS--  
2 DEFINITION--SCHEDULE OF ASSESSMENTS.--

3 A. As used in the Motor Vehicle Code, "penalty  
4 assessment misdemeanor" means violation of any of the  
5 following listed sections of the NMSA 1978 for which, except  
6 as provided in Subsections D and E of this section, the  
7 listed penalty assessment is established:

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

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

1	or seat belt	66-7-369	25.00
2	Minimum speed	66-7-305	10.00
3	Speeding	66-7-306	15.00
4	Improper starting	66-7-324	10.00
5	Improper backing	66-7-354	10.00
6	Improper lane	66-7-308	10.00
7	Improper lane	66-7-313	10.00
8	Improper lane	66-7-316	10.00
9	Improper lane	66-7-317	10.00
10	Improper lane	66-7-319	10.00
11	Improper passing	66-7-309 through 66-7-312	10.00
12	Improper passing	66-7-315	10.00
13	Controlled access		
14	violation	66-7-320	10.00
15	Controlled access		
16	violation	66-7-321	10.00
17	Improper turning	66-7-322	10.00
18	Improper turning	66-7-323	10.00
19	Improper turning	66-7-325	10.00
20	Following too closely	66-7-318	10.00
21	Failure to yield	66-7-328 through 66-7-331	10.00
22	Failure to yield	66-7-332	50.00
23	Failure to yield	66-7-332.1	25.00
24	Pedestrian violation	66-7-333	10.00
25	Pedestrian violation	66-7-340	10.00

1	Failure to stop	66-7-342 and 66-7-344	
2		through 66-7-346	10.00
3	Railroad-highway grade		
4	crossing violation	66-7-341 and 66-7-343	150.00
5	Passing school bus	66-7-347	100.00
6	Failure to signal	66-7-325 through 66-7-327	10.00
7	Failure to secure load	66-7-407	100.00
8	Operation without oversize-		
9	overweight permit	66-7-413	50.00
10	Transport of reducible		
11	load with special		
12	permit more than six miles		
13	from a border crossing	66-7-413	100.00
14	Improper equipment	66-3-801	
15		through 66-3-851	25.00
16	Improper equipment	66-3-901	20.00
17	Improper emergency		
18	signal	66-3-853 through 66-3-857	10.00
19	Minor on motorcycle		
20	without helmet	66-7-356	300.00
21	Operation interference	66-7-357	50.00
22	Littering	66-7-364	300.00
23	Improper parking	66-7-349 through 66-7-352	
24		and 66-7-353	5.00
25	Improper parking	66-3-852	5.00

1	Failure to dim lights	66-3-831	10.00
2	Riding in or towing		
3	occupied house trailer	66-7-366	5.00
4	Improper opening of doors	66-7-367	5.00
5	No slow-moving vehicle		
6	emblem or flashing		
7	amber light	66-3-887	5.00
8	Open container - first		
9	violation	66-8-138	25.00
10	Texting while driving -	Section 1 of this	
11	first violation	2014 act	25.00
12	Texting while driving -	Section 1 of this	
13	subsequent violation	2014 act	50.00.

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

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

25           D. The penalty assessment for speeding in

1 violation of Paragraph (4) of Subsection A of Section  
2 66-7-301 NMSA 1978 is twice the penalty assessment  
3 established in Subsection A of this section for the  
4 equivalent miles per hour over the speed limit.

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

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

18 SECTION 3. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is July 1, 2014. \_\_\_\_\_