

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 30

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

AN ACT

RELATING TO ALCOHOLIC BEVERAGE SALES; PERMITTING THE MOTOR  
VEHICLE DIVISION OF THE TAXATION AND REVENUE DEPARTMENT OR A  
COURT TO PROHIBIT THE POSSESSOR OF AN IGNITION INTERLOCK  
LICENSE FROM PURCHASING ALCOHOL; REQUIRING DRIVER'S LICENSES,  
IGNITION INTERLOCK LICENSES AND IDENTIFICATION CARDS TO  
INDICATE WHEN THE PURCHASE OF ALCOHOLIC BEVERAGES IS  
PROHIBITED; ENACTING A NEW SECTION OF THE LIQUOR CONTROL ACT TO  
PROTECT A PERSON WHO SELLS, SERVES OR GIVES ALCOHOL TO CERTAIN  
PERSONS.

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] VERTICAL LICENSES.--An instruction permit,  
provisional license or driver's license issued to a person

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underscored material = new  
[bracketed material] = delete

1 under the age of twenty-one years shall:

2 A. have a printed legend indicating the person is  
3 under twenty-one;

4 B. have a printed legend, displayed in such a  
5 manner as to be easily read by any person inspecting the  
6 license, indicating that the person is prohibited from  
7 purchasing alcoholic beverages; and

8 C. be printed vertically."

9 SECTION 2. A new section of the Ignition Interlock  
10 Licensing Act is enacted to read:

11 "[NEW MATERIAL] CONTENTS.--An ignition interlock license  
12 issued to a person shall be printed vertically and have a  
13 printed legend, displayed in such a manner as to be easily read  
14 by any person inspecting the license, indicating that the  
15 person is prohibited from purchasing alcoholic beverages."

16 SECTION 3. Section 66-5-405 NMSA 1978 (being Laws 1978,  
17 Chapter 35, Section 332, as amended) is amended to read:

18 "66-5-405. CONTENTS OF CARD.--

19 A. The identification card shall adequately  
20 describe the registrant and bear [~~his~~] the registrant's picture  
21 that shall show a full face or front view for all registrants  
22 and indicate donor status. [~~All identification cards of~~  
23 ~~persons under the age of twenty-one years shall have a printed~~  
24 ~~legend indicating that the person is under twenty-one.] The  
25 identification card shall bear the following statement:~~

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"STATE OF NEW MEXICO IDENTIFICATION

CARD NO. \_\_\_\_\_

This card is provided solely for the purpose of establishing that the bearer described on the card was not the holder of a New Mexico driver's license as of the date of issuance of this card. This identification card is not a license. ISSUED FOR IDENTIFICATION PURPOSES ONLY".

B. An identification card issued to a person under the age of twenty-one years shall have a printed legend indicating that the person is under twenty-one.

C. An identification card issued to a person whose driver's license is revoked for driving under the influence of intoxicating liquor or drugs or for a violation of the Implied Consent Act shall have a printed legend, displayed in such a manner as to be easily read by any person inspecting the license, indicating that the person is prohibited from purchasing alcoholic beverages.

D. An identification card issued pursuant to Subsection B or C of this section shall be clearly marked and printed vertically."

SECTION 4. Section 66-5-503 NMSA 1978 (being Laws 2003, Chapter 239, Section 3, as amended) is amended to read:

"66-5-503. IGNITION INTERLOCK LICENSE--REQUIREMENTS.--

A. A person whose driving privilege or driver's license has been revoked or denied or who has not met the

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underscoring material = new  
[bracketed material] = delete

1 ignition interlock license requirement as a condition of  
2 reinstatement pursuant to Section 66-5-33.1 NMSA 1978 may apply  
3 for an ignition interlock license from the division.

4 B. An applicant for an ignition interlock license  
5 shall:

6 (1) provide proof of installation of the  
7 ignition interlock device by a traffic safety bureau-approved  
8 ignition interlock installer on any vehicle the applicant  
9 drives; and

10 (2) sign an affidavit acknowledging that:

11 (a) operation by the applicant of any  
12 vehicle that is not equipped with an ignition interlock device  
13 is subject to penalties for driving with a revoked license;

14 (b) tampering or interfering with the  
15 proper and intended operation of an ignition interlock device  
16 may subject the applicant to penalties for driving with a  
17 license that was revoked for driving under the influence of  
18 intoxicating liquor or drugs or a violation of the Implied  
19 Consent Act; and

20 (c) the applicant shall maintain the  
21 ignition interlock device and keep up-to-date records in the  
22 motor vehicle showing required service and calibrations and be  
23 able to provide the records upon request.

24 C. An ignition interlock license shall be clearly  
25 marked to distinguish it from other driver's licenses and shall

1 have a printed legend, displayed in such a manner as to be  
2 easily read upon inspection of the license, indicating that the  
3 person is prohibited from purchasing alcoholic beverages.

4           ~~[G-]~~ D. A person who has been convicted of homicide  
5 by vehicle or great bodily harm by vehicle while under the  
6 influence of intoxicating liquor or drugs, as provided in  
7 Section 66-8-101 NMSA 1978, shall not be issued an ignition  
8 interlock license unless the person has completed serving the  
9 sentence for that crime, including any period of probation and  
10 parole."

11           SECTION 5. Section 66-8-102 NMSA 1978 (being Laws 1953,  
12 Chapter 139, Section 54, as amended) is amended to read:

13           "66-8-102. DRIVING UNDER THE INFLUENCE OF INTOXICATING  
14 LIQUOR OR DRUGS--AGGRAVATED DRIVING UNDER THE INFLUENCE OF  
15 INTOXICATING LIQUOR OR DRUGS--PENALTIES.--

16           A. It is unlawful for a person who is under the  
17 influence of intoxicating liquor to drive a vehicle within this  
18 state.

19           B. It is unlawful for a person who is under the  
20 influence of any drug to a degree that renders the person  
21 incapable of safely driving a vehicle to drive a vehicle within  
22 this state.

23           C. It is unlawful for:

24                   (1) a person to drive a vehicle in this state  
25 if the person has an alcohol concentration of eight one

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1 hundredths or more in the person's blood or breath within three  
2 hours of driving the vehicle and the alcohol concentration  
3 results from alcohol consumed before or while driving the  
4 vehicle; or

5 (2) a person to drive a commercial motor  
6 vehicle in this state if the person has an alcohol  
7 concentration of four one hundredths or more in the person's  
8 blood or breath within three hours of driving the commercial  
9 motor vehicle and the alcohol concentration results from  
10 alcohol consumed before or while driving the vehicle.

11 D. Aggravated driving under the influence of  
12 intoxicating liquor or drugs consists of:

13 (1) driving a vehicle in this state with an  
14 alcohol concentration of sixteen one hundredths or more in the  
15 driver's blood or breath within three hours of driving the  
16 vehicle and the alcohol concentration results from alcohol  
17 consumed before or while driving the vehicle;

18 (2) causing bodily injury to a human being as  
19 a result of the unlawful operation of a motor vehicle while  
20 driving under the influence of intoxicating liquor or drugs; or

21 (3) refusing to submit to chemical testing, as  
22 provided for in the Implied Consent Act, and in the judgment of  
23 the court, based upon evidence of intoxication presented to the  
24 court, the driver was under the influence of intoxicating  
25 liquor or drugs.

1           E. A first conviction pursuant to this section  
2 shall be punished, notwithstanding the provisions of Section  
3 31-18-13 NMSA 1978, by imprisonment for not more than ninety  
4 days or by a fine of not more than five hundred dollars (\$500),  
5 or both; provided that if the sentence is suspended in whole or  
6 in part or deferred, the period of probation may extend beyond  
7 ninety days but shall not exceed one year. Upon a first  
8 conviction pursuant to this section, an offender shall be  
9 sentenced to not less than twenty-four hours of community  
10 service. In addition, the offender may be required to pay a  
11 fine of three hundred dollars (\$300). The offender shall be  
12 ordered by the court to participate in and complete a screening  
13 program described in Subsection K of this section and to attend  
14 a driver rehabilitation program for alcohol or drugs, also  
15 known as a "DWI school", approved by the bureau and also may be  
16 required to participate in other rehabilitative services as the  
17 court shall determine to be necessary. In addition to those  
18 penalties, when an offender commits aggravated driving under  
19 the influence of intoxicating liquor or drugs, the offender  
20 shall be sentenced to not less than forty-eight consecutive  
21 hours in jail. If an offender fails to complete, within a time  
22 specified by the court, any community service, screening  
23 program, treatment program or DWI school ordered by the court  
24 or fails to comply with any other condition of probation, the  
25 offender shall be sentenced to not less than an additional

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1 forty-eight consecutive hours in jail. Any jail sentence  
2 imposed pursuant to this subsection for failure to complete,  
3 within a time specified by the court, any community service,  
4 screening program, treatment program or DWI school ordered by  
5 the court or for aggravated driving under the influence of  
6 intoxicating liquor or drugs shall not be suspended, deferred  
7 or taken under advisement. On a first conviction pursuant to  
8 this section, any time spent in jail for the offense prior to  
9 the conviction for that offense shall be credited to any term  
10 of imprisonment fixed by the court. A deferred sentence  
11 pursuant to this subsection shall be considered a first  
12 conviction for the purpose of determining subsequent  
13 convictions.

14 F. A second or third conviction pursuant to this  
15 section shall be punished, notwithstanding the provisions of  
16 Section 31-18-13 NMSA 1978, by imprisonment for not more than  
17 three hundred sixty-four days or by a fine of not more than one  
18 thousand dollars (\$1,000), or both; provided that if the  
19 sentence is suspended in whole or in part, the period of  
20 probation may extend beyond one year but shall not exceed five  
21 years. Notwithstanding any provision of law to the contrary  
22 for suspension or deferment of execution of a sentence:

23 (1) upon a second conviction, an offender  
24 shall be sentenced to a jail term of not less than ninety-six  
25 consecutive hours, not less than forty-eight hours of community

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1 service and a fine of five hundred dollars (\$500). In addition  
2 to those penalties, when an offender commits aggravated driving  
3 under the influence of intoxicating liquor or drugs, the  
4 offender shall be sentenced to a jail term of not less than  
5 ninety-six consecutive hours. If an offender fails to  
6 complete, within a time specified by the court, any community  
7 service, screening program or treatment program ordered by the  
8 court, the offender shall be sentenced to not less than an  
9 additional seven consecutive days in jail. A penalty imposed  
10 pursuant to this paragraph shall not be suspended or deferred  
11 or taken under advisement; and

12 (2) upon a third conviction, an offender shall  
13 be sentenced to a jail term of not less than thirty consecutive  
14 days, not less than ninety-six hours of community service and a  
15 fine of seven hundred fifty dollars (\$750). In addition to  
16 those penalties, when an offender commits aggravated driving  
17 under the influence of intoxicating liquor or drugs, the  
18 offender shall be sentenced to a jail term of not less than  
19 sixty consecutive days. If an offender fails to complete,  
20 within a time specified by the court, any community service,  
21 screening program or treatment program ordered by the court,  
22 the offender shall be sentenced to not less than an additional  
23 sixty consecutive days in jail. A penalty imposed pursuant to  
24 this paragraph shall not be suspended or deferred or taken  
25 under advisement.

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1           G. Upon a fourth conviction pursuant to this  
2 section, an offender is guilty of a fourth degree felony and,  
3 notwithstanding the provisions of Section 31-18-15 NMSA 1978,  
4 shall be sentenced to a term of imprisonment of eighteen  
5 months, six months of which shall not be suspended, deferred or  
6 taken under advisement.

7           H. Upon a fifth conviction pursuant to this  
8 section, an offender is guilty of a fourth degree felony and,  
9 notwithstanding the provisions of Section 31-18-15 NMSA 1978,  
10 shall be sentenced to a term of imprisonment of two years, one  
11 year of which shall not be suspended, deferred or taken under  
12 advisement.

13           I. Upon a sixth conviction pursuant to this  
14 section, an offender is guilty of a third degree felony and,  
15 notwithstanding the provisions of Section 31-18-15 NMSA 1978,  
16 shall be sentenced to a term of imprisonment of thirty months,  
17 eighteen months of which shall not be suspended, deferred or  
18 taken under advisement.

19           J. Upon a seventh or subsequent conviction pursuant  
20 to this section, an offender is guilty of a third degree felony  
21 and, notwithstanding the provisions of Section 31-18-15 NMSA  
22 1978, shall be sentenced to a term of imprisonment of three  
23 years, two years of which shall not be suspended, deferred or  
24 taken under advisement.

25           K. Upon any conviction pursuant to this section, an

1 offender shall be required to participate in and complete,  
2 within a time specified by the court, an alcohol or drug abuse  
3 screening program approved by the department of finance and  
4 administration and, if necessary, a treatment program approved  
5 by the court. The requirement imposed pursuant to this  
6 subsection shall not be suspended, deferred or taken under  
7 advisement.

8 L. Upon a second or third conviction pursuant to  
9 this section, an offender shall be required to participate in  
10 and complete, within a time specified by the court:

11 (1) not less than a twenty-eight-day  
12 inpatient, residential or in-custody substance abuse treatment  
13 program approved by the court;

14 (2) not less than a ninety-day outpatient  
15 treatment program approved by the court;

16 (3) a drug court program approved by the  
17 court; or

18 (4) any other substance abuse treatment  
19 program approved by the court.

20 The requirement imposed pursuant to this subsection shall  
21 not be suspended, deferred or taken under advisement.

22 M. Upon a felony conviction pursuant to this  
23 section, the corrections department shall provide substance  
24 abuse counseling and treatment to the offender in its custody.  
25 While the offender is on probation or parole under its

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1 supervision, the corrections department shall also provide  
2 substance abuse counseling and treatment to the offender or  
3 shall require the offender to obtain substance abuse counseling  
4 and treatment.

5 N. Upon a conviction pursuant to this section, an  
6 offender shall be required to obtain an ignition interlock  
7 license and have an ignition interlock device installed and  
8 operating on all motor vehicles driven by the offender,  
9 pursuant to rules adopted by the [~~traffic safety~~] bureau.  
10 Unless determined by the bureau to be indigent, the offender  
11 shall pay all costs associated with having an ignition  
12 interlock device installed on the appropriate motor vehicles.  
13 The offender shall operate only those vehicles equipped with  
14 ignition interlock devices for:

15 (1) a period of one year, for a first  
16 offender;

17 (2) a period of two years, for a second  
18 conviction pursuant to this section;

19 (3) a period of three years, for a third  
20 conviction pursuant to this section; or

21 (4) the remainder of the offender's life, for  
22 a fourth or subsequent conviction pursuant to this section.

23 O. A person required to obtain an ignition  
24 interlock device is prohibited from purchasing alcoholic  
25 beverages for the period the person is required to use an

1 ignition interlock license.

2           ~~[P.]~~ P. Five years from the date of conviction and  
3 every five years thereafter, a fourth or subsequent offender  
4 may apply to a district court for removal of the ignition  
5 interlock device requirement provided in this section and for  
6 restoration of a driver's license. A district court may, for  
7 good cause shown, remove the ignition interlock device  
8 requirement and order restoration of the license; provided that  
9 the offender has not been subsequently convicted of driving a  
10 motor vehicle under the influence of intoxicating liquor or  
11 drugs. Good cause may include an alcohol screening and proof  
12 from the interlock vendor that the person has not had  
13 violations of the interlock device.

14           ~~[P.]~~ Q. An offender who obtains an ignition  
15 interlock license and installs an ignition interlock device  
16 prior to conviction shall be given credit at sentencing for the  
17 time period the ignition interlock device has been in use.

18           ~~[Q.]~~ R. In the case of a first, second or third  
19 offense under this section, the magistrate court has concurrent  
20 jurisdiction with district courts to try the offender.

21           ~~[R.]~~ S. A conviction pursuant to a municipal or  
22 county ordinance in New Mexico or a law of any other  
23 jurisdiction, territory or possession of the United States or  
24 of a tribe, when that ordinance or law is equivalent to New  
25 Mexico law for driving under the influence of intoxicating

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1 liquor or drugs, and prescribes penalties for driving under the  
2 influence of intoxicating liquor or drugs, shall be deemed to  
3 be a conviction pursuant to this section for purposes of  
4 determining whether a conviction is a second or subsequent  
5 conviction.

6 ~~[S.]~~ T. In addition to any other fine or fee that  
7 may be imposed pursuant to the conviction or other disposition  
8 of the offense under this section, the court may order the  
9 offender to pay the costs of any court-ordered screening and  
10 treatment programs.

11 ~~[F.]~~ U. With respect to this section and  
12 notwithstanding any provision of law to the contrary, if an  
13 offender's sentence was suspended or deferred in whole or in  
14 part and the offender violates any condition of probation, the  
15 court may impose any sentence that the court could have  
16 originally imposed and credit shall not be given for time  
17 served by the offender on probation.

18 ~~[U.]~~ V. As used in this section:

19 (1) "bodily injury" means an injury to a  
20 person that is not likely to cause death or great bodily harm  
21 to the person, but does cause painful temporary disfigurement  
22 or temporary loss or impairment of the functions of any member  
23 or organ of the person's body; and

24 (2) "commercial motor vehicle" means a motor  
25 vehicle or combination of motor vehicles used in commerce to

1 transport passengers or property if the motor vehicle:

2 (a) has a gross combination weight  
3 rating of more than twenty-six thousand pounds inclusive of a  
4 towed unit with a gross vehicle weight rating of more than ten  
5 thousand pounds;

6 (b) has a gross vehicle weight rating of  
7 more than twenty-six thousand pounds;

8 (c) is designed to transport sixteen or  
9 more passengers, including the driver; or

10 (d) is of any size and is used in the  
11 transportation of hazardous materials, which requires the motor  
12 vehicle to be placarded under applicable law."

13 SECTION 6. A new section of the Liquor Control Act is  
14 enacted to read:

15 "[NEW MATERIAL] SELLING OR SERVING ALCOHOL TO CERTAIN  
16 PERSONS.--It is not a violation of the Liquor Control Act for a  
17 person, including a person licensed pursuant to the provisions  
18 of the Liquor Control Act, or an employee, agent or lessee of  
19 that person, to sell, serve or give alcoholic beverages to a  
20 person, other than a minor, who has been issued an ignition  
21 interlock license or identification card bearing a printed  
22 legend indicating that the person is prohibited from purchasing  
23 alcoholic beverages."

24 SECTION 7. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is July 1, 2015.

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